AA 000 145 397 6
UC SOUTHERN REGIONAL LIBRARY FACILITY

THE CARE AND USE OF THE COUNTY ARCHIVES OF CALIFORNIA

OWEN C. COY, PH.D.

liforni
ional
lity

CD
3111
C3

Digitized by the Internet Archive
in 2007 with funding from
Microsoft Corporation

http://www.archive.org/details/careuseofcountya00caliiala

THE CARE AND USE OF THE COUNTY ARCHIVES OF CALIFORNIA

By OWEN C. COY, Ph.D.,
Director and Archivist

Publication of the
CALIFORNIA HISTORICAL SURVEY COMMISSION

CALIFORNIA STATE PRINTING OFFICE
SACRAMENTO
1919

49127

Copyright
By Owen C. Coy
1919

UNIVERSITY OF CALIFORNIA
SANTA BARBARA COLLEGE LIBRARY

LETTER OF TRANSMITTAL.

To His Excellency,

WILLIAM D. STEPHENS, *Governor,*

Sacramento, California.

SIR: Herewith is presented a treatise on *The Care and Use of the County Archives of California.* This reprint from the *Guide to the County Archives* is issued in the belief that by a wider circulation of the observations and suggestions herein set forth the importance of the local archives may be more generally recognized and their care and safety be given more careful consideration.

Respectfully submitted.

CALIFORNIA HISTORICAL SURVEY COMMISSION.

JOHN F. DAVIS, *Chairman.*

HERBERT E. BOLTON.

EDWARD A. DICKSON.

Sacramento, California, November 15, 1919.

PREFACE

The study here presented is a reprint of Part I of the *Guide to the County Archives of California*. It is issued as a separate publication in the belief that it may prove useful as a handbook dealing with the care, safety, and use of the county archives. In its preparation two distinct objects have been kept in mind: First, the consideration of the care and safety of the archives of the state; and second, a general description of the records of the county officials, giving a statement of what they contain and suggestions as to their value to the investigator.

In so far as is known this is the first time an attempt has been made to provide an historical summary of the laws dealing with the local records of California together with a critical study of their contents and condition. The main object has been to prepare for laymen desiring to make use of these records a brief account of their history and content. It is also believed that it may be found useful to public record keepers when dealing with older records. In all cases explicit references to statutes and code sections make possible a more complete study of the laws dealing with the archives in question. Since the activities of government can be determined most advantageously by studying the records maintained by the various departments and officials, it is probable that as a handbook it may also prove useful to teachers of political science and local government.

The larger volume for which this treatise was originally prepared as an introduction contains, in addition, lists of records found in the various counties of the state. The archives there listed are those of the clerk, recorder, superintendent of schools, and the four fiscal officials—the auditor, treasurer, assessor, and tax collector. The first two of these are by far the most important as regards both historical and administrative value. They are therefore, as a rule, more accessible and better cared for than the records of the other officers.

In the preparation of this work an effort has been made to observe carefully the manner in which the records are cared for as well as to investigate the kinds of materials used in the records themselves. The results show that less than one-third of the counties have provided for their records buildings adequately safe from the danger of fire, while, on the other hand, far too many are veritable firetraps. Paper and ink are often used without due consideration as to their permanent quality. Furthermore, the very prevalent custom of classing as "junk" all records whose administrative or historical value is not readily obvious to the official, has resulted in casting aside these records into places

where they soon become prey to destructive elements. This treatise is presented in the hope that by calling attention to these conditions the safety of the records may be more carefully conserved.

In the course of his work the author has received assistance and encouragement from many people. Much is due Professor Herbert E. Bolton of the Historical Survey Commission, whose advice and encouragement have been of unfailing value. A great deal has been obtained from the published reports of the Public Archive Commission of the American Historical Association and from the reports of commissions on history and archives in other states, especially those of Massachusetts and Illinois. The kindly spirit of co-operation shown by county officials and the assistance rendered by those in charge of the Bancroft Collection, the Boalt Hall Library and the main library at the University of California, as well as the State Library at Sacramento, can not be passed without a word of appreciation. Mention should also be made of those who, with the author, have been active in the service of the Commission. Among those much is due Mr. Ralph S. Kuykendall, whose assistance in field work, as well as in the study of archive legislation, has made his advice and criticism most valuable; and Miss Hazel R. Bell, who in a secretarial capacity has been of indispensable help in checking up references and in proof reading.

OWEN C. COY.

Berkeley, California, November 15, 1919.

TABLE OF CONTENTS

PAGE

PREFACE ... v

LIST OF ABBREVIATIONS ... viii

THE CARE AND USE OF COUNTY ARCHIVES.

THE CARE OF ARCHIVES ... 1
The practical value of archive study ... 2
The housing of public records ... 4
Materials used in record making ... 6
General observations ... 10

THE CLERK ... 15
General provisions ... 15

Court records ... 16
History and organization of the courts ... 16
Description of records ... 20

Supervisors' records ... 24
History and powers ... 24
Description of the records ... 27

Miscellaneous records ... 29
Office routine and general duties ... 29
Naturalization ... 31
Registration ... 33
Elections ... 37
Marriage and public health ... 40
Pertaining to private business affairs ... 42
Relating to other officers ... 43

THE RECORDER ... 46
General provisions ... 46
Personal property records ... 48
Records relating to property titles ... 51
Acquisition of original title ... 51
Transfer and encumbrance of title ... 54
Miscellaneous property records ... 63
Vital statistics ... 66
Miscellaneous records ... 69

THE SUPERINTENDENT OF SCHOOLS AND HIS ASSISTANTS ... 77
The superintendent of schools ... 77
Assistant officials ... 81
The auditor ... 81
The treasurer ... 84
The assessor ... 85
The collector ... 87

INDEX ... 89

LIST OF ABBREVIATIONS

no.	number
n. d.	no date
gen.	general
rev.	revised
dept.	department
stats.	statutes
amds.	amendments
p. pp.	page, or pages
v. or vol.	volume
Pol. Code	Political Code
Civ. Code	Civil Code
Pen. Code	Penal Code
Code Civ. Proc.	Code Civil Procedure

THE CARE OF ARCHIVES

THE IMPORTANCE OF ARCHIVES

Even as the fabric of modern civilization is built upon the foundation of past generations, so both the security of its institutions and the means of further progress depend in a vital manner upon the safety and accuracy of its records. In these Western States, so recently the frontier of civilization, the importance of this fact may not at first be evident. In European countries, on the other hand, it has been long recognized as a matter of great importance that the public records be properly preserved, both for administrative and historical reasons.

That the local public archives are an indispensable source to the historian is readily apparent to one familiar with that field. For, notwithstanding the other sources of information available to the research worker, he must turn to the public records for a large part of the facts around which he will seek to reconstruct the past. No adequate history of the development of the State of California can ever be written that is not based upon a more or less intimate knowledge of the great mass of information found in its local archives. From them is to be obtained first-hand information showing how the pioneer gold-seekers established their government and meted out summary punishment in their local courts; how in their efforts to find wealth and establish homes they explored remote regions and founded flourishing cities; and how slavery, although strictly forbidden by the constitution of the state, was allowed to exist for many years. They give in detail the story of the building of roads, the establishment of schools, the founding of churches and fraternal organizations; the growth of wealth and industry into the great current of modern life. Pioneer reminiscences and memoirs have real merit but must be checked with more trustworthy material; contemporaneous letters, diaries and newspapers are very valuable, but even these may be unreliable on account of personal prejudice or incomplete knowledge. The public archives, on the other hand, contain a vast supply of information which, on account of its official character, has been gathered or compiled with more regard for accuracy than is the case with much other material.

To be sure, the supply of facts to be obtained from the archives is not inexhaustible and upon many subjects may be quite limited, and yet one is surprised to discover that data recorded for one purpose may prove most helpful in throwing light upon some question seemingly entirely foreign to the original object, as for example, the use

of election returns and records of school attendance to indicate relative growth and distribution of population. In similar manner the records of marriages, court proceedings, transfers of property, census reports and election returns, as well as many other record books, contain an array of facts which can not be found elsewhere. That these are of value alike to the historical investigator, the genealogist, and student of social science, is apparent even to the casual observer.

Many of the records are veritable mines of information, and scattered through the archives are frequently found books or documents whose unique character mark them as possessing unusual value. Among these should be mentioned the Spanish archives at Salinas, Santa Cruz, Los Angeles, San Francisco and elsewhere; the alcalde dockets in a large number of counties; the volume of Larkin papers in Monterey County archives; the many records of Spanish and Mexican land grants; as well as numerous scattering documents showing evidences of Negro and Indian slavery.

THE PRACTICAL VALUE OF ARCHIVE STUDY

Value to Keepers of Records. The study of archive problems, such as has been undertaken in this present survey, will doubtless be recognized as contributing not only to the field of historical research but [illegible] interesting the keepers of our [illegible], especially [illegible] whose duties are largely those of archivists. [illegible] considered that the average [illegible] in the regular work of his office [illegible] the nature of the contents of [illegible] becomes evident, if he is to be expected to administer intelligently the archives in his possession, that any method whereby he can be helped to become more familiar with these records will be of value. In this respect the work which is represented in this report is aimed to be of value along several lines. In the first place, the study which has been made by this commission in the field of archive science permits it to present to the keeper of records something of the knowledge of experienced and trained archivists, not only in other states, but in European countries as well, where the organization of records and documents [illegible] years of [illegible] to a thorough study of this science. Second, the study of the statutes and codes, with the resultant summary of the provisions of the laws dealing with the records, [illegible] such as legislators, not only to become more familiar with the records, but also to become more acquainted with [illegible] Third, the [illegible] being kept, the citation of references to the codes and statutes being included in order that [illegible]

afford an easy reference to the laws themselves. Third, the thorough manner in which the archives, including not only the main offices in the courthouse, but basement, attic, and storerooms as well, have been examined has resulted in the location of many record books which had been misplaced in earlier years. Fourth, in order to secure, in so far as possible, a uniform order in the archive reports an attempt has been made to group the entries in a logical and systematic manner. In many cases the county officials may find it convenient to follow in some degree the grouping and order here suggested.

Value to the Taxpayer. That the work here represented has been and will continue to be of value to the taxpayer has already been indicated, for whatever assists in the preservation of the public record for the use of this and future generations, or aids the officials entrusted with the keeping of these records to become more intelligent and more efficient, will, in so far as it is successful, be of practical benefit to the state as a whole.

In addition to those advantages which have already been suggested, the following contributions should also be taken into consideration. First, the study which has been made of conditions existing in the courthouses in reference to danger from fires, dampness, and other elements of destruction, is of no small importance. In many cases, as will be pointed out in the report, there exists grave danger from fires, both from without and from inflammable material used in interior construction. That these conditions should be remedied immediately in the interest of the safety of the records, and therefore to the security of property, is readily apparent. Second, the materials used in making these records has been carefully considered, especially in reference to inks and paper. That the millions of dollars which are annually spent by the state in the compilation of these records should not be jeopardized through the use of faulty materials, should be plainly evident to all thoughtful citizens. Third, the close examination of offices, attics, basements, closets and vaults has revealed many valuable record books which had, in earlier years, been misplaced and given up as lost. In one case, El Dorado County, more than a dozen record books, many dealing with land titles, had been misplaced at the time of a courthouse fire in 1910 and had since that time been considered burned. These were found and returned to their proper place. What was done here was done in many other counties where books were found and returned to their legal custodian. That suits involving property titles valued at thousands of dollars may be averted by the location of these records is more than a mere probability.

THE HOUSING OF PUBLIC RECORDS

Fireproof Buildings. If public records are to be permanently preserved they must both be prepared in such a manner as to insure their [illegible] withstand the rigorous tests of time and they must also be safely housed against loss by fire, decay and other elements of destruction. Since the greatest apparent danger to public records is through fire, an effort is usually made to see that in structures built to house them only fireproof materials are used. Practically all of the courthouses and halls of records constructed during the past two decades have been built in a fireproof manner; many of the older ones, however, fall far below what the standard should be.

Since no universal formula is known whereby it is possible to determine when a structure is adequately fireproof, this is largely a matter of individual judgment based upon a general knowledge of dangers from fires and of the local conditions, such as building material, isolation, fire protection, and the like. While examining the archives of the various counties an attempt has been made to note whether or not the county archives of California are properly housed. While, in general, it may be said that the courthouses have been built with the idea of guarding the safety of the records, in too many cases this has been inadequately done. Of the fifty-eight counties in the state, thirty-seven were classed as being probably safe from outside fires. In many cases this was due as much to the isolation of the building as to the nature of its material. Thirteen were clearly not fireproof, and eight others were jeopardized by their nearness to other structures which were a constant danger. When an examination was made of the interior of these buildings the results were found to be even less satisfactory. Six should a fire once gain headway within the [illegible] evidence of being able to confine the fire to its place of origin, while thirty-one were clearly not fireproof, and nine only fireproof in part. To summarize then, thirteen or nearly one-fourth, of the counties are not provided with fireproof buildings; twenty-seven or about one-half are partially protected; while but eighteen, less than one-third of the whole, are adequately protected. It should, however, be added that several of these buildings that are not fireproof are provided with vaults, where the greater part of the records are supposed to be kept. It is not, however, safe to assume that all of the officers in charge always observe the precaution to have their records in the vault, or even that the vault itself can withstand a [illegible] heat. On the other hand, sad experiences have shown that many structures supposed to be proof against fire have been seen to [illegible] when put to the test. It is, therefore, probable that many of the buildings classed as fireproof might not withstand such a test.

Vaults. While a very large percentage of the county courthouses are to some extent provided with vaults, they are not used as fully as the safety of the records requires. This is doubtless due to the fact that, as a rule, they are poorly lighted, insufficiently ventilated, and not convenient of access, it being necessary in most cases to remove the books to some other place for consultation. The result is that in many cases the vaults are used for only a very small part of the records, principally those not in current use.

Another criticism to be made in regard to vaults is that they are often unsatisfactory as depositories for records because of dampness. This is usually due to their location, it being the common, although mistaken, practice to construct the vault in the basement or cellar or some other part of the building equally undesirable for other purposes. Experience in other states has shown that a vault should not be constructed in a basement, and should, if possible, be built to open into a room which gets the direct sunlight. Since a vault or safe will gather dampness unless opened frequently it should be opened and well ventilated at least once a week. To avoid excessive dampness vaults should be constructed with double walls, in such a manner as to permit the passage of air between the walls as well as within the vault. This may be done by means of a small pipe connecting with the flue, in such a manner that the damp air may be carried off and yet no fire be allowed to enter. In case the vault contains a small amount of moisture it may be absorbed through the use of lime, the lime being removed as soon as it becomes slaked. The lime should always be placed in a noncombustible vessel to avoid fire.

Storerooms, Basements and Attics. In addition to the main offices and vaults, often a very considerable part of the older county records are stored elsewhere in storerooms, which are most frequently located in basements or attics. While in some cases these rooms are reasonably well equipped for keeping the records safely, as a rule they are brought into service without much regard to their being suitable depositories for books and documents. Not infrequently the basements are damp, the attics dusty and mice-infested. In many cases the books are piled away without regard to their future use, with the natural result that all are soon a heterogeneous mass. Seldom are these places adequately equipped with electric lights, so there is constant danger of fire from matches or candles.

The material found in such parts of the courthouse consists almost entirely of semi-discarded records, those books which have not been called for by attorneys or searchers for some time. In general this is known as "junk," but, in spite of this commonly applied title, it frequently contains material of considerable historical value as well as documents that may at any time become important court records. That greater care should be taken of this older material is evident

to anyone who makes even a superficial examination of this class of material. If it is a felony to destroy records some penalty ought to be meted out to the official who permits records to be cast away where they are almost sure to be destroyed by mould, mice, dust or heat.

Office Furniture. The equipment and furniture of an office used as a depository for records should be given more careful consideration than it has usually received, judging from what is to be found in the average courthouse. In many buildings the fire hazard is greatly increased because the offices, instead of being furnished with modern fireproof equipment, are supplied with wooden counters, book shelves and other furniture which in a few cases is accompanied by pasteboard filing cases. Since smoking is seldom prohibited in these offices, and many are heated by wood stoves, it is apparent that the records kept in such surroundings are constantly in danger from fire. The more modern buildings are equipped with steel counters and enclosed steel filing cases and roller shelved book racks. The latter have the additional advantage in that they not only reduce greatly the danger from fire, but when closed prevent the accumulation of dust, and may be securely locked if there is danger of theft.

MATERIALS USED IN RECORD MAKING

Not only must the public records be safely housed in fireproof buildings properly equipped with vaults and convenient dry storerooms, but it is also essential that care be taken to see that the materials used in the public records be selected with great care in order to guard against the danger that the ink with which they are written may fade or that the paper upon which they are written may disintegrate. Although this commission has not been directly authorized to take up this matter, it has considered it within its jurisdiction to make at least a preliminary examination of the materials used in the offices of the county officials and to compare the results with similar investigation in other states where the public records are more closely supervised.

Inks. One of the most important elements affecting the permanency of a record is the quality of the ink used. This has long been recognized by the leading archivists of Europe and is being given increasing consideration in our own country. More than a century ago Thomas Astle, the keeper of records in London Tower, called [illegible] "most importance" that the public records be written [illegible] durable quality. In 1879 the German government, [illegible] the permanency of its records, prohibited the [illegible] gall inks in its record books and soon after issued definite instructions as to the methods of classifying and testing the inks intended for use on public records. Subsequent [illegible] investigations by Schluttig and Neumann developed

definite formula for the manufacture of iron-gall ink, taking into consideration its various chemical elements.

In this country investigations along this line were first begun by the Commonwealth of Massachusetts through its public record commissioner, Robert T. Swan. Swan examined the various kinds of ink in use and concluded that many of them are entirely unsafe for use upon records where permanency is an important consideration.[1] None of the inks made from aniline dyes are permanent, and when once obliterated by light, heat, water or other causes, no means has been discovered whereby they can be made legible. Likewise, logwood inks are unsatisfactory, as they have a tendency to turn brown, if they do not fade entirely. Carbon inks, when made in the proper manner, are permanent, but many so-called carbon inks are either not carbon inks or are improperly made and therefore not safe to use upon the records. Of all the common inks nut-gall and iron inks are, if properly made, considered the most permanent, for even in case the writing made by these inks should fade, it is possible to restore it by a nut-gall or tannate solution. Many inks which are recommended because proof against the action of acids may not be permanent against the action of time and even be dangerous because of their action upon the paper. As the result of Swan's investigations, Massachusetts came to adopt, as the standard for ink used upon its public records, the formula for iron tannate inks as worked out by Schluttig and Neumann. This has subsequently been adopted by the United States Treasury department and other government bureaus.

Standard Ink. Although leaving to the manufacturers of ink the opportunity to modify the details in such manner as they believe may facilitate manufacture or improve the quality of ink, there were adopted certain specifications and requirements which all inks, used upon the public records, are required to meet. They demand that the ink shall be gallo-tannate of iron ink, not inferior in any essential quality to one properly prepared in accordance with the specified formula, in which all the ingredients are of the strength and quality prescribed by the United States Pharmacopeia and the per cent of true acid present in the sample of tannic acid used has been determined by the Loewenthal and Schroeder method. The formula for standard record ink as adopted by Massachusetts is as follows:

Take of pure, dry Tannic Acid, 23.1 parts by weight,
of crystal Gallic Acid, 7.7 parts,
of Ferrous Sulphate, 20.0 parts,
of Gum Arabic, 10.0 parts,
of diluted Hydrochloric Acid, 25.0 parts,
of Carbolic Acid, 1.0 part,
of Water, sufficient to make up the mixture at the temperature of 60° F. to the volume of 1,000 parts by weight of water.

[1] Massachusetts, Commissioner of Public Records, Report, 1891, pp. 119-125.

Besides these elements the United States government requires the addition of dye material similar to bavarian blue to give the mixture an immediate color.

The inks presented for approval are compared with the standard ink by being submitted to the following tests:

1. A fluid ounce allowed to stand at rest in a white glass vessel, freely exposed in diffused daylight for two weeks to the light and air, at a temperature of 55 to 60° F., protected against the entrance of dust, must remain as free from deposit upon the surface of the ink or on the bottom or sides of the vessel.

2. It must contain no free iron, and must have a specific gravity of 1.035 to 1.040 at 60° F.

3. It must develop its color as quickly.

4. After a week's exposure to diffused daylight the color must be as intense black when used upon the standard record paper, and it must equally resist changes from exposure to light, air, water, or alcohol.

5. It must be as fluid, flow as well, strike no more through the paper, nor remain more sticky immediately after drying.

Inks used in California Archives. As the result of inquiries in most of the counties of California it has been found that the inks of more than a dozen different manufacturers are in use in the offices of this state. The greater part of these are well established companies who doubtless have a pride in the quality of the ink manufactured by them, but in several counties inks were used which had been concocted by local dealers. Practically none of the counties had given the matter of the permanency of the ink serious consideration and little attention was given to the different kinds produced by any company to determine whether or not the particular brand used by them was durable. In some it was the habit to mix two kinds of ink together, and in many it was the rule to add water to the ink should it become thick by evaporation.

In order that the opinion of the manufacturer might be obtained upon some of these questions a letter was sent to each of them whose address could be obtained. Replies were received from practically all. As might be supposed, all named one or more kinds of ink produced by them which they would recommend for use in public records where permanency is the first consideration. Since many kinds of ink are frequently produced by the same company, it was not possible in all cases to know whether the particular ink, or some [illegible] extremely liable to eliminate the efficiency of both inks. On the question of the advisability of adding water to restore the fluidity of [illegible] there was less decided opinion, but nearly all warned against the practice, for most inks are a chemical compound which, when once [illegible] through evaporation, can not be readily restored. It was

therefore advised that small ink-wells be used, which can be cleaned and refilled frequently.

Colored Inks. Examinations made of many bright colored inks indicate that they are apt to fade very quickly and hence should not be used upon records. A number of different kinds of red ink were examined by an expert chemist for Massachusetts with the conclusion that all were more or less fugitive and that there was no permanent red ink. In like manner blue and other colored inks were advised against. Fortunately these colored inks are not used to any important amount upon public records of the state. There has, however, been a custom in some counties to make endorsements upon documents or headings and marginal references on record books in red ink, while the document itself is copied in black. In view of the results of the investigations elsewhere made there can be no doubt that the safer plan would be to make all entries that are a part of a record in black ink only.

Stamp-pads. Although colored inks are but little used upon the public records, the use of rubber stamps for dating and indorsing documents is very common, and not infrequently these are used in permanent record books. That there is grave danger from the use of these there can be no doubt for the more brilliant colors—red, purple and green—are apt to fade very quickly. Black ink pads may prove to be more permanent, but the fact that the ink is not as a rule forced into the paper, as is the case with a pen or typewriter, increases the danger that any imprints made with a rubber stamp may not be permanent.

Typewriter Ribbons. With the invention of the book typewriter and the insertable leaf record book many of the offices have adopted the typewriter as an important factor in the copying of records. Although it is impossible without an examination of the various makes of ribbons to determine which, if any, are really permanent, black record ribbons produced by reliable companies are to be preferred, while, on the other hand, purple or other colored ribbons are to be avoided.

Record Paper. Notwithstanding the importance of securing a permanent ink it is of equal, if not even greater necessity, that the paper used in the record books and official documents have a quality enabling it to endure the rigorous test of time. The necessity of protecting the character and quality of the paper used in its records was recognized by the Commonwealth of Massachusetts more than a century ago. Subsequent investigations led to the passage of an act, in 1891, specifying that the standard should be "paper made of linen rags and new cotton clippings, well sized with animal sizing." It is explained that linen *rags* are required because the previous wear upon

the linen was found to be advantageous; that new cotton was required [illegible] and the excessive use of chemicals in cleaning the old; and that animal sizing was specified in order to avoid chemical treatment of the surface.[1]

The paper in general use in the record books in the county archives of California appears to be a good quality of ledger paper, and there is probably less danger from inferior quality of paper than from poor ink. Yet the point is of such grave importance that it should not be left to the judgment of the county official without the guidance of [illegible] tests. In regard to the paper used in the documents which are supposed to remain permanently on file there is much greater danger from an inferior grade being introduced, since these documents are often inscribed upon printed forms furnished by others than the county officials. Since, upon filing, they become a permanent part of the public records, regulations should be adopted prescribing that they be made upon a paper of durable quality.

GENERAL OBSERVATIONS

Repair of Documents and Records. The constant use to which [illegible] records and papers are subject makes it necessary that the keeper of these records, if he conscientiously seeks to perform his duty, must care for their repair. The most common practice is to employ a copyist to transcribe the records to replace the worn book. When they are badly worn this is the only thing that can be done, but in other cases it may be possible by a reasonable amount of care and forethought to repair books before the damage has reached a stage where repair is impossible. In the first place attention should be given to the office equipment to see that the wear upon the books is reduced to the minimum. For this reason horizontal roller shelves are recommended in place of the old fashioned racks where the books were placed on end. The books should be conveniently arranged and labeled so that it will not be necessary to handle any book other than the one desired. A systematic effort should be made to inspect all books regularly and repair any damage as soon as it becomes noticeable. There are several methods of repairing torn pages so they may be read without disturbing the reading matter on the page.

In many [illegible] offices a large number of volumes are constantly being [illegible] handling when the proper care to see that they are [illegible] would extend their usefulness over an indefinite [illegible]. The records should be periodically inspected and effort should [illegible] the protection of all who use the archives to the end [illegible] eliminated.

Leather and canvas are most commonly used for the purpose of binding. Although the former was for many years the more popular form of binding, the superiority of canvas has now been demonstrated. Leather has been found to deteriorate and when subject to great heat even to melt into a dark mass which stains the records, when under similar circumstances the canvas bindings remain uninjured.[1] In rebinding it is suggested that the volumes be interleaved with pages larger than the original in order to protect the older paper which in many cases has become brittle and is therefore easily broken. Care also should be taken to see that the correct title and inclusive dates be stamped on the back of each volume.

Copying of Records. Through repeated handling records sooner or later become unfit for further use; it becomes necessary to provide for copying them. Furthermore, the formation of new counties or shifting of county boundaries often places property under the jurisdiction of a different county from the one in which the title was originally entered, in which case it is desirable to reproduce the record in the archives of the new county to which the property belongs. In the case of several of the more recently formed counties the act creating the county has provided for the transcribing of all these records which properly pertained to lands in the detached portion. It is unfortunate that this has not been required in every case, for, in addition to the convenience in consulting records, this plan provides an additional official copy of the record which, in case of loss of the original, may be most valuable.

In copying records or documents absolute adherence to the text of the original document must be demanded. Unfortunately many of the early copies of documents have not followed carefully the original. This, of course, destroys confidence in the copy and may even render it worthless as an official document. Recent transcripts show greater care in copying and in making the comparisons, so that the criticism which is made of earlier copyists is no longer so fully justified.

Photography. The use of photography has been suggested as a means of recording documents. Measures relating to this matter have been before the state legislature at its last few sessions, but up to the present no action has been taken approving of the plan. The arguments favoring the method are, first, that a truer reproduction of the original documents would be made by a camera than by any copyist, thus eliminating the errors which often find their way into recorded documents; and second, that the expense would be lessened.

Opposed to these arguments are the following important considerations: Since many of the documents preserved for record are almost illegible because of poor penmanship, it becomes one of the important functions of the copyist to determine the true wording of the document and then transcribe it into uniform legible script or type. That this, when done in a manner to insure an accurate reproduction of the original, is a valuable service, none can deny. Again, up to the present time the paper used for photographic purposes is thicker than the heaviest of ledger paper used in the records and can only be used on one side. The inevitable result would be that the records would require at least twice the space they now occupy and probably an even larger amount. Furthermore, the permanence of the photographic record has not yet been established. There are two essentials to this quality of permanence: first, a paper which will withstand the heavy usage to which a public record is constantly subjected; and second, the imprint upon the record page must be made in a manner which will not permit it either to fade or be erased. It has not yet been sufficiently demonstrated that the photographic impression is capable of enduring permanently, while there is an even more grave danger that the paper itself can not sustain the constant wear. In view of these considerations it would seem to be unsafe at present to permit the use of photography as a substitute for the present method of copying documents for the official records. The objections here raised do not, however, apply to transcripts from the official records such as certified copies of record [illegible].

Insertable-leaf Record Books. Since 1901 the laws have permitted the use of separate or insertable-leaf record books in the office of the county recorders. Although the provision was made optional, books of this kind are now employed in nearly all of the counties of the state. For convenience and economy there can be no question as to their desirability. The safety of this kind of a book as a record [illegible] especially recommended from [illegible]. All pages should be stamped with their [illegible] as soon as the volume is commenced, to prevent the substitution of a different page for one already used. As soon as [illegible] is recorded it should be indexed. When the volume [illegible]

In those offices handling financial records only there are grounds for serious complaint regarding the abuse of the insertable-leaf record books. Due to the fact that insufficient binders are provided, it is found that in far too many cases financial records which might otherwise be valuable are rendered useless because the sheets when filled are not permanently bound, but placed carelessly away in a corner of the office or in the vaults or storeroom without regard to their future use. The result of this is that in many counties where ledgers, cash books, warrant registers, and other records have been well kept during a long period of time they are not to be had for the more recent years.

Economy in Archive Space. The problem of sufficient room is a very serious one in many offices. Unfortunately this condition exists not only in those counties that are still using antiquated courthouses, but even in many counties that have but recently built new county buildings. It is too often the case that the county boards do not have sufficient vision to foresee the needs of the future, with the result that expensive and well appointed buildings soon become inadequate to meet the growing demands of the county. The remedy for this is more care in planning and constructing public buildings.

But quite aside from the consideration of the size of the building, the matter of record space requires serious consideration, for it leads sooner or later to an attempt to discriminate between those records which are essential and those which are of less or of no further value, a matter which is too often determined by men incapable of judging the real value of a document. At any time a record which has been unused for years may suddenly become the center of interest in some matter of great importance. An effort should therefore be made to conserve all the space possible and yet not discard anything which may at some time prove to be of value. One way in which this can be accomplished in nearly every courthouse is by discarding the unused pages in record books which are no longer in current use, if need be having the books rebound.

Should it become imperative that a portion of the records be destroyed this operation should be carried out under the supervision of some person whose knowledge of the archives and of the uses to which the records may be put enables him to know what documents may be disposed of with the least possible danger. It would be well if no records were allowed to be discarded or destroyed except under the supervision of a state officer specially qualified for that task.

The question of space is closely connected with that of centralization of archives. In many states the policy has been adopted that such local archives as are no longer needed for administrative purposes should be centralized at some central archive. There are many issues

involved in the consideration of this policy such as local pride opposing removal, the classes of archives that should be removed, and that of adequate space in the central archive itself. In view of these apparent difficulties no recommendation can be made at present. It is, however, believed that the time must come when records whose usefulness to the immediate community has passed should be properly cared for in some place where their real value as historical documents will be more carefully recognized and respected. At present many records of great value to the historian, and pertinent also to the rights of citizens, are carelessly relegated to what is commonly known as the "junk heap."

Training of Archivists. So long as the care of public records is made dependent upon the fickle changes of political opinion it can not be expected that their care and safety will at all times be the paramount consideration. While the democratic principle of rotation in office may have elements in its favor in some cases, it can not be justified in reference to those officials entrusted with the immediate care of public records. The remuneration attached to such offices as the county clerk and recorder should be sufficient to make it possible for men of competence and ability to devote their attention to the work; it should not, on the other hand, be so high as to make the position sought after as a reward for party loyalty, or political favor. When an official has demonstrated his ability and worth his tenure of office should not be disturbed by petty considerations.

What is said of elected officials applies also to assistants in these offices. In fact, it frequently is the case, under our system of government that the deputies are more expert in handling the duties of the office than are their superiors. Other states, following the example of the European countries, have seen so clearly the need of trained archivists in charge of their central and local records that they have established schools for training of persons in archive methods. From experts thus trained it is possible for clerks, recorders and other officials to secure their staff of assistants.

In the new Western States, where our oldest records were written, [illegible] years ago, it may be too much to expect that public sentiment [illegible] fully the importance of the safety and permanency [illegible] [illegible] [illegible]

THE CLERK

GENERAL PROVISIONS

The two most important record-keeping offices in the county are those of the clerk and recorder. It is necessary that the worker who desires to exploit the field of local history should become familiar with the records of both of these offices, and have some idea of the contents of the others as well, if he is to make adequate use of historical sources. The clerk has many administrative as well as archive duties, while on the other hand the activity of the recorder is devoted almost entirely to transcribing or otherwise preserving documents which are presented to him for that purpose.

For convenience the records under the supervision of the clerk have been divided into three main classes, corresponding to the kinds of work performed by that officer. They are: I, Court records; II, Supervisors' records; and III, Miscellaneous records. With the first division is to be found a brief historical account of the various courts of which the county clerk has by law been made the clerk, together with a description of the various records kept by the courts. The second division includes all those records kept by the county clerk in his capacity as clerk of the board of supervisors. The third division is much less easily defined, but includes all other records kept by the county clerk; for many of his duties can not be considered as falling to him either as a clerk of the court or as clerk of the county board.

The earliest act prescribing the duties of the county clerk was passed by the first legislature, April 18, 1850, and stated them to be as follows[1]: He was ex officio clerk of the district court, court of sessions and probate court of his county; he was empowered to administer oaths and to receive bonds; was required to attend each term of the county court and the other courts of the county; to keep an office at the county seat and "take charge of and safely keep or dispose of according to law all books, papers and records, which may be filed or deposited in his office." A further section set forth that he was to issue all writs, enter all orders, judgments and decrees proper to be entered in the minutes; to keep a docket of each court, in which he was to make certain specified entries; and was to keep such other books or records as might be prescribed by law or by the rules of the court.

A few unimportant amendments were made before 1872, when the duties of the clerk were outlined in the Political Code.[2] The first

[1] [illegible] 1850, [illegible]. [2] 1872, §§ 1204-1205.

paragraph reiterated the provision regarding the safe-keeping of all records, books and papers filed or deposited in his office; the second declared that he was to act as the clerk of the board of supervisors, district, county and probate courts and attend each term of them and upon the judges in their chambers when required; third, that he was to issue all processes and notices required to be issued and to keep for each court a docket; fourth he was to keep an index of all suits in the district and county courts. Among his duties were also included the keeping of such other records and duties as might be prescribed by law.

Since that time the changes made in the code have been of little importance. In 1907 the code was rearranged and the sections cited repealed by sections 1178 and 1179, but these did little more than to incorporate the old provisions. With the adoption of the present constitution in 1880, the older courts gave way to the superior court with a consequent change in the title of the clerk's records.[4]

COURT RECORDS

HISTORY AND ORGANIZATION OF THE COURTS

District Court. At the time the state was first organized and for thirty years thereafter the judicial affairs of the counties were administered by three, and, for a part of the time, four separate courts. These were the district court, county court, probate court and the court of sessions. The highest of these was the district court. The district judges held court at the various county seats in their districts at certain specified dates. The jurisdiction of the court was original in all cases of law and equity and civil cases where the amount exceeded $200; and in all criminal cases not otherwise provided for; it covered all issues of fact in probate cases; and all cases of real property. The county clerk was clerk of the court. By an act of March 11, 1851, the term of the judges was fixed at six years, and the court given appellate jurisdiction over the county court, and the court of sessions in criminal matters.[5] The number of districts was increased from nine in 1850 to twenty-three in 1879.

In the year 1863 the district court was given jurisdiction over cases involving the legality of any tax, impost, assessment, toll or municipal fine. In an act approved April 4, 1864, the matter of tax suits was much more fully considered, it being provided that all actions for the collection of taxes on real estate, wherein an order of sale was sought [illegible] court of the proper

county. For the keeping of the records regarding these suits the clerk of the court might be required to procure books as follows: an index book; a register of actions; an order book; and a decree book.[7] Records pertaining to tax suits have been found in more than half of the counties. In five counties the complete set is to be found.

This court also had jurisdiction in matters of naturalization, but since the records in reference to this are considered later under the head of Miscellaneous Records no further mention will be made here. Under the constitution of 1879 the district court was discontinued, its jurisdiction within each county being given to the superior court of that county.[8]

County Court. By action of the first legislature a county court was established in each county, under the supervision of the county judge. Four regular sessions were to be held annually for the trial of appeals from the justices of the peace and such special cases as might be pending. The county judge was empowered to issue writs of habeas corpus and as conservator of the peace of the county could exercise all the powers of the justices of the peace as conservators of the peace. He was given jurisdiction over probate matters, and was required to hold a session of court for the hearing of such matters on the first Monday of each month. He was also given power to issue writs of injunction, mandamus, attachment and all other writs and processes known to the law. The county clerk was clerk of this court.[9]

In 1851 a general law was passed concerning the courts of justice of the state which repealed all previous laws on the subject. Under the new law the county court continued as before to have jurisdiction in lesser civil cases, except that its probate jurisdiction was given to a probate court which was created, the county judge being, however, the judge of this new court. The appellate jurisdiction of the county court, which originally included judgments rendered in civil cases in justice's or recorder's courts in the county, was extended in 1853 to include also mayor's courts. In 1863 the court of sessions was abolished and its criminal jurisdiction given to the county court.[10] Under the constitution of 1879 this court was discontinued, being superseded by the superior court.[11]

Court of Sessions. Under an act of the legislature of 1850 a court of sessions was organized in each county of the state. This court was composed of the county judge and two justices of the peace, the county clerk being clerk of the court. Meetings were to be held every other month and their business was divided into two kinds

known as criminal jurisdiction and county business. The criminal jurisdiction of the court of sessions extended to all cases of assault, assault and battery, breach of the peace, riot, affray, petit larceny and misdemeanors punishable by fine not over $500 or three months imprisonment. In addition to this criminal jurisdiction the court supplied the place later taken by the board of supervisors. Since the two kinds of business were radically different the clerk was required to keep a separate set of minutes and records for each.[1] In spite of this provision, however, in many of the counties the minutes were combined. The records relating to county business will be considered under the records of the board of supervisors.

An act of March 11, 1851, repealed the former law but embodied most of its features. As given in this act the jurisdiction of the court was: 1st to inquire, by the intervention of a grand jury, of all public offenses committed or triable in the county; 2d to try and determine indictments found therein, for all public offenses except murder, manslaughter and arson; 3d to hear and determine appeals from the justices', recorders' and mayors' courts in cases of a criminal nature.[2] In 1863 the court of sessions was discontinued and its criminal jurisdiction given to the county court.[3]

Probate Court. The act of the legislature by which the county court was created gave to that court jurisdiction over probate matters, except that issues of fact joined in the probate court were to be tried in the district court. For the transaction of probate business the county judge was to hold a term of the court on the first Monday of every month.[4]

In 1851 a distinct court was created, to be known as the probate court, the county judge being made judge of this court. Its jurisdiction was similar to that formerly exercised by the county court over probate business.[5] Regarding issues of fact, it was required that in certain cases they should be tried by a jury, to be drawn from the district court, but might by consent of the parties be tried in the probate court. Appeals were also allowed to the district court from the decisions of this court.[6]

In 1854 an amendment to the law of 1851 allowed appeals to the supreme court from decisions of the probate court. In 1856 provisions regarding trial of issues were amended so as to require the issues to be tried by a jury in the probate court instead of in the district court. This act amended the provisions for the probate court

were incorporated in the Code of Civil Procedure in 1872.[18] The probate court was discontinued in 1879, being superseded by the superior court, in accordance with the provisions of the constitution adopted in that year.[19]

Probate Records. Although since 1879 the probate court has ceased to exist as a separate court, it has been the rule under the superior court that the records of probate business should be kept separate from the regular civil and criminal business of the court. In the larger counties probate matters are turned over to a special department of the court. There is a great diversity in the methods of keeping the probate records, depending somewhat upon the size of the counties. This department, in common with the others, has a calendar, docket, index, file, register of actions and minutes. With the latter are included orders of the court. The larger offices have a great number of form books for entering orders, but all the volumes of minutes and orders are usually numbered consecutively in one series. In the probate department are also found volumes in which are recorded letters of administration and guardianship, in several different forms, guardians' inventories and appraisements, wills admitted to probate, and the records regarding the collateral inheritance tax.

Superior Court. The present judicial system dates from 1880 when, under the provisions of the constitution adopted the preceding year, a superior court was created in each county to care for the business previously handled by the district, county and probate courts.

In the smaller counties one judge is sufficient to handle all the business of this court, but in the larger counties several judges are elected to this position. When there is more than one judge the court is divided into departments, a department being assigned to each. One of the judges is then designated as presiding judge, in which capacity he assigns cases to the various departments; otherwise there is no difference in rank among them. It is usually the rule, in so far as practicable, to divide among the different departments the various kinds of cases such as criminal, civil, probate and juvenile matters. In many counties a separate set of records is kept for each of these four classes of business, although in some civil and criminal business are combined.

Juvenile Court. The Juvenile Court law, approved March 8, 1909, provided that the superior court should exercise the jurisdiction conferred by that act. In counties where there were more than one judge, one was to be selected to preside over this court. The ses-

[18] Stats. 1863, 1:375; 1867, 8:628; Code Civ. Proc. (1872), §§ 94-109; 659-671, 23: 1716.
[19] Stats. 1880:3.

sions of the juvenile court must be held separate from other court sessions, and no persons permitted to be present except such as were connected with the business of the court. The orders and findings of the court were to be recorded in a "book to be kept for that purpose and known as the 'juvenile court record.'"[20] The Juvenile Court law of 1915 made no change in the provisions cited above except to require the orders and findings to be entered in a "suitable book or books or other form of written record, to be kept for that purpose, and known as the 'juvenile court record'."[21] In most of the counties this law has been observed. In five of them, however, there are no juvenile court records.

DESCRIPTION OF RECORDS

Roll of Attorneys. An act of February 19, 1851, provided that admission of attorneys to general practice before all the courts of the state should be made by the judges of the supreme court, although the judges of the district and county courts might admit to practice in their respective courts. The clerk of each court was required to keep a roll of attorneys and counselors at law admitted to practice before the court of which he was clerk, which roll the attorney was required to sign before he received his license, the roll being a record of the court. This arrangement continued in force until the adoption of the Code of Civil Procedure in 1872 when the provision regarding the district and county courts was omitted, being restored, however, by an amendment to the code in 1874. In 1880 the superior court took the place of the district and county courts. In 1895 the provision of the code permitting the superior court to admit attorneys to practice in that court was again removed, and in 1905 the examination and certification of attorneys was made the duty of the judges of the district courts of appeal. The clerks of these courts keep a roll of attorneys and transmit monthly to the clerk of the supreme court a list of those admitted during the month, and the clerk of the supreme court keeps a general roll of all attorneys admitted to practice in the state.

Calendar. A book in which the clerk enters the cases before the court for trial according to the date of issue. Under each date of the court session the clerk enters the titles of the cases to come before the court on that day, and after hearing, a notation showing what disposition was made of the case, whether dismissed, continued, etc., and if continued to what date. This book can not properly be called a record

[20] Code Civ. Proc., §§ 276, 280; Code Civ. Proc., 1906, 1915.
[21] Code Civ. Proc., 1915.

as it is of little value except for current use of the court. In most counties no attempt is made to preserve it.

Docket. A record book showing the title of each case, date of commencement, memorandum of each subsequent proceeding in such cause with the date thereof, and list of all fees charged in the cause. In the case of criminal action it must show each indictment according to date of filing; whether a felony or misdemeanor and whether the defendant be in custody or on bail.[3]

Execution Book. An amendment to the Practice Act, approved April 2, 1866, provided that when an execution shall have been returned by the sheriff to the clerk, it shall be the duty of the latter to attach the same to the judgment roll. "If any real estate be levied upon, the clerk must record the execution and the return thereto at large, and certify the same under his hand as true copies, in a book to be called the 'execution book,' which book must be indexed with the names of the plaintiffs and defendants in execution alphabetically arranged."[4]

Execution Docket. An act of April 22, 1850, provided that the clerk should keep an execution docket in which he should enter an abstract of all executions issued by him, setting forth the names of the parties, character of the writ, amount, if it be for money, date of judgment with reference to page of record in which it was entered, date of execution, officer to whom issued, and return made upon the execution. This act was repealed the following year and the new act contained no mention of an execution docket, but the record was still kept in a number of counties, in five of them down to the present time.[5]

File or Judgment Roll. The court file, more technically called the judgment roll, contains in civil cases the following papers: In case the complaint be not answered by the defendant, the summons and the affidavit or proof of service, and the complaint with a memorandum endorsed on the complaint that the default of the defendant in not answering was entered, together with a copy of the judgment and any orders relating to a change of the parties.[6] In criminal cases the file contains, as required by the Criminal Practice act of 1851: (1) a copy of the minutes of any challenges which may have been interposed by the defendant to the panel of the grand jury, etc.; (2) the indictment and a copy of the minutes of the plea or demurrer; (3) minutes with reference to challenges of trial jurors; (4) copy of the minutes of the trial; (5) copy of the minutes of the judgment; (6) bill of exceptions, if there be one; (7) the written

charges asked of the court, if there be any. The Penal Code in 1872 added, "a copy of all charges given and of the endorsements thereon. This was amended in 1874 and continues in the present Penal Code which says the file shall contain: (1) the indictment or information and a copy of the minutes of the plea or demurrer; (2) a copy of the minutes of the trial; (3) the written instructions given, modified or refused, and the endorsements thereon and a certified transcript of the charge of the court; and (4) a copy of the judgment."

This is one of the few court records that may be found in all the counties. The papers are usually filed numerically, the number being the same as that assigned the case when it was entered in court. They therefore follow in general a chronological sequence. In some, as in Sacramento County, the cases which have been dismissed are filed separately, the case number, however, remaining the same. In some of the smaller counties, especially in probate cases, the papers are filed under the initial letter of the parties or estate in court.

General Index. The clerk is required to keep, in separate volumes, an index to all suits. One volume is headed "General Index—Plaintiffs" and has columns for entering the number of the suit, name of plaintiff, name of defendant, date of judgment, page of entry in the judgment book, page of minute book of the court. The other volume is headed "General Index—Defendants" and has a similar arrangement of columns. The only difference between the two volumes is that in the first the names of the plaintiffs are arranged alphabetically, while in the second the names of the defendants are so arranged.

As a usual thing the index to the court records is very well kept in all the counties. This is probably accounted for by the fact that these records are so often used by searchers of titles. Entries are made chronologically under alphabetical subdivisions.

Insanity Commitments. In 1881 an amendment to section 2217 of the Political Code was adopted which requires that the county clerk shall keep a copy of the order committing an insane person to the state hospital and shall prepare an index book showing the name, age and sex of each person ordered confined, together with the date of the order and the name of the institution in which such person is ordered to be confined."

Although insanity records appear in all of the counties, they do not uniformly follow the provisions of the law just cited. The record of committing the insane person may be found at times in an Order Book, Record of Commitment, Judgment Book, or in the Minutes of the Court. The index referred to is kept in about one-half of the counties.

Insanity—Certificates of Discharge. There was added to the Political Code in 1903 a provision that when any person is discharged, as recovered, from a state hospital for the insane, a copy of the certificate of discharge may be filed for record with the clerk of the superior court of the county from which said person was committed. The clerk shall record the same in a book kept for that purpose and shall keep an index thereto.[10] In something less than half of the counties this is kept in a separate book; in the others it is usually entered with the record of commitment.

Inquests. An act concerning coroners, passed April 19, 1850, required that after the holding of an inquest the "testimony of the witnesses examined . . . shall be reduced to writing by the Coroner . . . and . . . filed by him, with the inquisition [verdict of the jury], in the office of the Clerk of the District Court of the County." But if the person charged with the killing had been already arrested the coroner was to deliver this testimony and inquisition to the magistrate before whom the prisoner was brought, and the magistrate was required to return them to the clerk of the district court.[11] These provisions were incorporated in the Penal Code in 1872, with, however, the "county court" substituted for the "district court" in each case. Recognizances of witnesses, when taken by the coroner, were also required to be filed along with the testimony and verdict.[12] In 1880 these became a record of the supreme court.

Judgment Book. A book in which the clerk is required to enter a transcript in full of every judgment rendered by the court in a civil action. Criminal judgments are copied directly into the minutes.[13]

Judgment Docket. A book which the clerk is required to keep, having each page divided into columns headed as follows: Judgment debtors; Judgment creditors; Judgment; Time of entry; Where entered in judgment book; Appeals, when taken; Judgment of appellate court; Satisfaction of judgment, when entered. In 1907 an amendment required an additional column for the date of the entry in the docket.[14]

Jury Lists. An act concerning jurors, approved April 28, 1851, provided that after the drawing of the lists of jurors, grand and trial, these lists should be filed in the office of the county clerk. Since that date there has been considerable variation in the method of preparing the jury lists, but the provision for filing in the office of the county clerk has been retained to the present day.[15]

About one-third of the counties have these jury lists. On the other hand a Jury Book or Jury Record, containing time of service, fees, etc., is to be found in a very large portion of the counties.

Minutes. These are a record of the daily proceedings of the court containing a synopsis of all orders, judgments and decrees proper to be entered, unless the court shall order them to be entered at length.[16]

It is customary for the clerk to take rapid notes of the business transacted by the court in blotters or rough minute books. These are later copied in proper form into other books known as smooth minutes. The smooth minutes are considered the minutes of the court, although in some cases the rough minutes have also been preserved. Frequently they are referred to in preference to the smooth minutes.

Register of Actions. A book in which the clerk of the court is required to enter the title of each action, with brief notes under it, from time to time, of all papers filed and proceedings had thereon.[17] This is probably the most important of the court records, as it contains in one place practically a full record of each case. It is therefore much used by searchers of titles. This book, together with the file, minutes and index, constitute the only court records which are always to be found.

Reporters' Notes. In all of the courthouses great quantities of court reporters' shorthand notes are to be found. Although they contain a great deal of information the difficulty of deciphering their contents makes them of little actual value.

Transcripts on Appeal. When a case is appealed to the supreme court it is required that a transcript including all the evidence, motions, court rulings, etc., be prepared in printed form and bound for the use of the court. It becomes readily apparent, therefore, that the value of such a document is limited only by the nature of the case to which it refers.

SUPERVISORS' RECORDS

HISTORY AND POWERS

Under the provisions of a law passed April 11, 1850, the county of [illegible] was given authority to control the property of the county, to erect and keep in repair, to levy taxes, to [illegible] and license ferries, to regulate [illegible] and election precincts, [illegible] county officers, [illegible] under the jurisdiction of the board of supervisors. [illegible] that the court should hold separate [illegible] of county business and it [illegible]

that the minutes and all other records of the court when so sitting should be kept separate and distinct from the records of the court when sitting as a court of criminal jurisdiction, a rule which, as noted elsewhere, was not always observed. The county clerk was made the clerk of the court of sessions and he was required to record in a book kept for the purpose the minutes of the court and regular entries of all resolutions, orders, decisions, judgments and decrees touching county business.[1]

An act of April 29, 1851, created for the county of San Francisco a board of supervisors and conferred upon them the powers in matters of county business formerly exercised by the court of sessions. In the following year a similar law was passed applying to all the counties of the state except San Joaquin, Butte, Trinity, Santa Barbara, Nevada, Yuba, Solano, Mariposa, Sutter, Placer, Shasta, Siskiyou, Klamath, and Sierra.[2] This law was subsequently, at different times, repealed in so far as it related to the counties of Calaveras, Colusa, Contra Costa, Marin, Monterey, Sacramento, Santa Clara, Tulare, and El Dorado, and the powers and duties of the board of supervisors in those counties handed back once more to the court of sessions.[3]

March 20, 1855, the law of 1852 was repealed and a new act passed which provided that "there shall be in each of the counties of this State a Board of Supervisors," and from this date the court of sessions ceased to have any legislative functions, although it continued as a criminal court until 1863. There were from time to time special acts relating to the boards of supervisors in particular counties, but it will be unnecessary to notice these acts as they did not affect the general outlines of the law of 1855. This law, variously amended and augmented, was embodied in the Political Code in 1872 and in the various acts providing for a uniform system of county government.[4]

The powers and jurisdiction of the board of supervisors, as stated in the law of 1855, were as follows:

> 1. To make orders respecting and to take care of and preserve the property of the county;
>
> 2. To examine, settle and allow all accounts against the county and levy the necessary and lawful taxes;
>
> 3. To examine and audit the accounts of all officers having to do with county money;
>
> 4. To lay out, control and manage roads, ferries, bridges, etc.;
>
> 5. To take care of and provide for the indigent sick of the county;
>
> 6. To divide the county into townships and to change these as convenience may require;

[illegible] composition of this court see p. [illegible]

[illegible] *et seq.*; 1897:152 *et seq.*; Pol. Code (1915), §§ 4027-4090.

7. To establish and change election precincts and appoint inspectors and judges of elections;

8. To control and manage the property of the county and to receive, by donation, any property for the use and benefit of the county;

9. To lease or purchase any real or personal property necessary for the county, after a proper valuation by three disinterested persons;

10. To sell at public auction, after thirty days notice, any property of the county;

11. To cause to be erected, furnished and kept in repair a courthouse, jail or other public buildings, after receiving bids duly advertised;

12. To control the prosecution and defense of all suits to which the county is a party;

13. To do and perform all such other acts and things as may be strictly necessary to the full discharge of the powers and jurisdiction conferred on the board.

The board was directed to act as a board of equalization, to cause the state and county taxes to be levied, to publish a semiannual statement of the revenues of the county, and, by an order entered on the record, to adopt, ratify and confirm all the acts, proceedings and contracts of the court of sessions heretofore made.[5]

Subsequent legislation has greatly expanded the powers and jurisdiction of the board of supervisors, but most of these later additions were included or implied in the enumeration above. It may, however, be useful to note some of these additional powers as they are given in the Political Code:

14. To maintain public pounds and prescribe limits within which animals shall not run at large;

19. To fill vacancies in county and township offices, with certain exceptions;

26. To destroy pests, such as gophers, squirrels, noxious weeds and insects injurious to fruits or vegetable or animal life;

27, 28. To protect sheep, fish and game;

29. To provide for working of prisoners on public roads, build bridges, etc.;

31. To make local police, sanitary and other regulations;

33. To levy a tax for advertising the resources and advantages of the county;

35. To encourage tree planting;

37. To prevent river floods;

42. To restore indexes of county records destroyed by fire or other calamity;

43. To provide for the health of domestic live stock;

46. To order census in years other than those in which [illegible] of the county or of any township or district;

DESCRIPTION OF THE RECORDS

The earlier laws contained only general provisions that the board of supervisors (or court of sessions) should cause to be kept a book in which should be entered fully the minutes of the board and all their resolutions, orders, decisions, judgments and decrees.[10] The Political Code, adopted in 1872, in defining the duties of the clerk of the board, provided that he must: (1) Record all the proceedings of the board; (2) Make full entries of all their resolutions and decisions on all questions concerning the raising of money for and the allowance of accounts against the county; (3) Record the vote of each member on a division or at the request of any member; (4) Sign all orders made and warrants issued by order of the board for payment of money and certify the same to the county auditor; (5) Record the reports of the county treasurer of the receipts and disbursements of the county; (6) Preserve and file all accounts acted upon by the board; (7) Preserve and file all petitions and applications for franchises and record the action of the board thereon; (8) Record all orders levying taxes; (9) Perform all other duties required by law or by any rule or order of the board.[11] To which were added in 1883 the following: (10) Authenticate with his signature and the seal of the board the proceedings of the board whenever the same shall be ordered published; (11) Authenticate all ordinances passed by the board, and to record the same at length in the ordinance book.[12]

To attempt to analyze all the records to be found in the offices of the boards of supervisors would be impractical. A few of the more important ones have, however, been selected for special consideration.

Allowance Book. This is a book in which the clerk is required to record all orders for the allowance of money upon the county treasury, to whom made, on what account, date, number.[13] This record is sometimes called "Record of Claims Allowed" and is similar to the Register of Warrants or Warrant Book kept by the treasurer and auditor, of which it is really a counterpart.

Burial of Ex-Union Soldiers, Sailors and Marines. A law enacted in 1889 requires that the board of supervisors provide for the proper burial of ex-Union soldiers, sailors and marines, who die in the county without sufficient means, the burial to be in charge of some proper person and to be at a cost not to exceed fifty dollars. The person in charge of the burial is required to make a report on the condition and history of the man and his family, this report with the other facts in the case to be entered by the clerk in a book to be kept for that purpose.

Equalization Records. The minutes of the board of supervisors when acting as a board of equalization are required by the provisions of the Political Code to be kept separate from the regular minutes, for under section 3682 of the Political Code the clerk is required to "record in a book to be kept for that purpose all changes, corrections and orders made by the Board" relative to equalization of assessments.[14] These records are usually called Minutes of the Board of Equalization, although frequently the title appears as Orders of Cancellation of Erroneous Assessments. In many counties this provision for a separate book has been disregarded, these entries being placed in the regular Minute Book of the board. Often the petitions and certificates of cancellation themselves are also kept on file.

Franchise Book. Since 1872 the clerk has been required to keep a record of each franchise granted by the board of supervisors, stating for what purpose it was granted, length of time and to whom it was issued, the amount of bond and license tax required.[15]

Minutes. For the historian the minutes of the board of supervisors constitute the most valuable set of records in the office of the clerk. Since in them the clerk is required to record fully all resolutions and decisions and also the proceedings of all regular and special sessions of the board it can be seen that the value of the record, if properly kept, must depend upon the amount of business taken up by the board. As previously noted, the duties and powers of the board cover a wide field of activity.

The usefulness of these minutes will be recognized when it is remembered that they contain the record of the formation of townships, election precincts and school districts; election returns; the granting of franchises; the issuance of county bonds; the laying out of highways and building of bridges, school houses and county buildings; as well as the general supervision of all the activities of the county.

Ordinance Book. This book was first adopted in 1883 and, as its name implies, contains the record of all ordinances passed by the board of supervisors.[17]

Road Records. The Political Code, at the time of its adoption in 1872, prescribed that the clerk of the board should keep a book in which should be recorded all proceedings of the board relating to road districts, including orders laying out, altering, and opening roads. In a separate book he was required to keep a description of each road district, its overseers, roads, highways, contracts, and other matters [illegible] adopted in 1883 all of the [illegible] and its provisions

to be incorporated in the minutes of the board, in addition to which the clerk was to keep a road register in which must be entered the number and name of each public highway in the county, a general reference to its terminal points and course, also the date of the filing of the petitions or others papers, a memorandum of every subsequent proceeding in reference to it, with the date thereof, and the folio, and the volume of the minute book where it is recorded.[19]

In actual practice the road records show much less uniformity than might be expected. The common titles are Road Books, Road Minutes, Road Record and Road Register. These do not, however, indicate four different kinds of records, for an examination of the contents shows that the records usually fall into one of two classes. The first is a general road record and contains the minutes of supervisors and other similar entries relating to roads. It is, therefore, known as Minutes, Road Record or Road Book. The other is a record of each road or highway, the entries in regard to each road being assembled on one page in the form of a register. In keeping with its character this is usually known as the Road Register, although frequently known as Road Record. There are also in many cases deeds to highways, road petitions, maps of roads, and other records relating to highways.

MISCELLANEOUS RECORDS

In addition to the records already discussed, which the county clerk is required to keep by virtue of his position as clerk of the courts and of the board of supervisors, there are many others which arise from his general duties as clerk of the county. Some of these are difficult of classification, since they might be classed in numerous ways, but after careful consideration they have been arranged in six subdivisions. For the sake of convenience the naturalization records are also placed here, though these are, strictly speaking, court records. There are, therefore, seven groups of miscellaneous records, as follows: (1) Office routine and general duties; (2) Naturalization; (3) Registration; (4) Elections; (5) Marriage and public health; (6) Pertaining to private business concerns; (7) Relating to other officers.

OFFICE ROUTINE AND GENERAL DUTIES

Under this heading are grouped such records as the clerk's cash book, memorandum of accounts, fee book, special deposit record, and others of this general character. With the exception of the fee book, which is kept in some form by all clerks, there is but little uniformity

[19] Stats. 1897, c. 1, Pol. Code (1915), § 26.

in the titles or form of these records, although they are in general similar in nature. In addition to these financial records there are frequently others relating to correspondence, files of miscellaneous papers and the clerk's land register docket, under the Torrens Land Act. Other titles which deserve more extended treatment are considered in the following paragraphs.

Hunting and Fishing Licenses. The game law enacted March 13, 1907, required the county clerk to enter in a book kept for that purpose the name and resident address of every person to whom is issued a hunting license, and a description of such person, by age, height, race and color of eyes and hair. The 1909 law repeated this requirement. By an act of June 16, 1913, a similar provision is made regarding "Sporting fishing licenses." Other documents relating to game licenses, such as applications for licenses and license stubs, are also frequently kept by the clerks. They are, however, considered as merely temporary records and are usually soon destroyed.[1]

Military Rolls and Military Tax. An act concerning the organization of the militia, approved April 10, 1850, provided that "all free, white, able-bodied male citizens, between the ages of eighteen and forty-five years, residing in this State, and not exempt by law, shall be subject to military duty." All who were not exempted by law, and not members of any volunteer or independent company, were required to pay to the county treasurer two dollars a year as a commutation for the nonperformance of military duty. Provision was made for enforcing the collection of this military tax. This law also required the assessor each year to make out a separate and distinct list of all persons subject to military duty, and not members of any volunteer or independent company. A certified copy of this list was to be sent to the adjutant general of the state and the original list deposited in the office of the county clerk.[2]

An act approved April 25, 1855, reenacted the earlier section regarding those subject to military duty. It also required the assessor to [illegible] and the original to be deposited in the office of the county clerk. This act required the payment of a tax of twenty-five cents by each person on the military list for the support of the volunteer militia of the state. The assessor was to assess this tax, and it was to be collected and returned in the same manner as other taxes. An amendatory act [illegible]

An act approved May 9, 1861, repealed the previous laws regarding the militia but re-enacted the section regarding those subject to military duty. This law also required the assessor, as before, to make out the military list of the county, which list was to be delivered to the clerk of the board of supervisors. These provisions were repeated in the militia act of the following year.[5] An amendatory and supplemental act passed in 1863 levied upon each male inhabitant of the state of the age of twenty-one years an annual tax of two dollars, to be known as the "military poll tax," to be assessed and collected in the same manner as the state poll tax. Volunteers in the United States army were exempted.[6]

The laws of 1855, 1861, and 1862 required the muster roll of each company to be filed with the clerk of the county in which it was located. In a few counties (as Solano and Yuba) were found muster rolls and other papers relating to military companies organized during the Civil War, and it is probable that a careful search of the miscellaneous files would bring to light similar records in other counties.

By the adoption of the Political Code in 1872 the previous laws regarding the militia were repealed or superseded. Sections 1895 to 2117 of the code as then adopted had to do with the state militia. Section 1897 required the assessor each year to make out a military roll for the county, as under the earlier laws, and to deliver the same to the clerk of the board of supervisors. The board of equalization must then correct the military roll at the same time as the assessment roll, and the clerk must send a copy of the corrected list to the brigadier general of the brigade to which his county belonged.[7] In 1897 this was amended by requiring two copies of the roll to be delivered to the clerk of the board of supervisors, and in 1913 by requiring the military roll to be made up only in each odd-numbered year, and by substituting "Adjutant General of the state" for "Brigadier General of the brigade."[8]

NATURALIZATION

The federal naturalization laws give jurisdiction over naturalization matters to courts of record having a seal, a clerk and jurisdiction in actions in which the amount in controversy is unlimited. Under the old system of courts this business was transacted by the district and county courts; since 1880 it has been done by the superior court. In Los Angeles County all naturalization business has since June, 1915, been handled by the federal courts.

[5] Stats. 1861:321; 1863:76.
[6] Stats. 1863:116.
[7] Pol. Code (1872), §§ 1897, 1899, 1900.
[8] Stats. 1897:406; 1913:710, 711.

The first naturalization law, passed March 26, 1790, provided a very simple procedure. Citizenship might be conferred by any common law court of record upon a hearing in which it should be shown that the applicant had been at least two years a resident in the United States, and upon his taking the required oath of allegiance. No previous declaration of intention was necessary, but the clerk was required to record the application and proceedings thereon in the records of the court. No special record book seems to have been called for.[9]

The next law, passed January 29, 1795, made necessary the filing of a declaration of intention three years before the final application for admission, and also increased the residence requirement to five years. The same provisions were included for recording the proceedings as in the previous law.[10] From that time until 1906 the plan of naturalization remained much the same, though there were variations in detail and some special enactments at different times.[11] So far as the records were concerned there were no material changes. While there was no specific requirement in the statutes for special record books, an examination of the records of the various courts in this state shows that special books were, in actual practice, kept for the recording of declarations of intention, petitions and certificates, and for naturalization indexes of various kinds.

A California state law passed in 1872 required the clerk of the court to provide two books, in one of which he should enter in alphabetical order the names of all persons who, from the organization of the court, had declared their intention to become citizens of the United States, together with the date of the declaration. In the other book he was required to enter in alphabetical order the names of all persons admitted by that court to citizenship in the United States, together with the name of the country of which each was before a citizen or subject; the date of admission, and the page of the court record book containing the order admitting him.[12]

The federal naturalization law, approved June 29, 1906, requires: 1. A declaration of intention, to be filed at least two years prior to admission; 2. A petition for naturalization, to be filed not less than two nor more than seven years after the declaration of intention; with this must also be filed a certificate of arrival for all aliens coming to the country after June 29, 1906; 3. An examination of the petition by the clerk at the time the petition is presented and a final hearing by the court, after notice, at which time the petition is either granted or denied.

[9] 1 U. S. Statutes at Large, 103.

[10] 1 U. S. Statutes at Large, 414.

[11] Act of June 29, 1906.

The blank forms for the declaration of intention, petition for naturalization and certificate of naturalization are furnished by the bureau at Washington. The permanent court records required by the law of 1906 are as follows: (1) The original declarations of intention, bound in volumes and numbered consecutively from volume to volume, beginning with number one in volume one; (2) The petitions for naturalization bound and numbered in similar fashion, together with a record of final orders upon the petitions for naturalization, which in the forms provided by the bureau is kept upon the back of the petition, this book being called "Petition and Record"; and (3) The stubs of the certificates of naturalization.[13] These latter are not always preserved.

REGISTRATION

Poll Lists. These constituted the only official register of voters between 1850 and 1866 and were retained to supplement the Great Register between 1866 and 1872. The act to regulate elections, approved March 23, 1850, required the county judge to furnish to each inspector of elections for each election two copies of a blank form containing one column headed "Names of voters" and one column headed "Numbers of votes," with proper captions and certificates. At the time of holding the election the name of each person voting was to be entered on these blanks, together with the number. These poll lists were to be included with the election returns, one copy of which was to be preserved by the inspector for at least six months, and the other sent to the county clerk.[14]

The Registry act of 1866 did away with these earlier poll lists and provided for the preparation of poll lists before each election by a board of registration for each precinct. This board was to consist of one clerk and two judges to be elected or appointed to serve for a period of two years. The poll list was to be prepared during the ninety days preceding the election, and was to be completed on the thirtieth day preceding the election, after which it was to be sent to the county clerk, who had it printed, together with the other poll lists for the county. Copies of the printed lists were then sent to each clerk of election, and a final revision was made by the board of registration in the three days preceding the election. The poll list was to be made up from the uncanceled names on preceding poll lists, from the great register and from the oral applications of those entitled to be enrolled as electors for the election. The list was to contain columns for the number, name, date, age, class (whether native or naturalized), occupation and address of each person enrolled, and a

[13] [illegible] at Large XXXIV, 596 *et seq.*
[14] [illegible], 1850:101 *et seq.*

column in which the fact of his having voted or his vote having been rejected should be noted at the time of the election. These lists, constituting a record of those who voted, were also to be included with the election returns, as in the case of the earlier poll lists. Prior to July 1, 1867, registration in the great register was not a necessary prerequisite to enrollment on the poll list; after that date it was, except in the case of persons naturalized, becoming of age or coming into the county within thirty-five days preceding the election.[15]

The Political Code in 1872 abolished these poll lists. In a note the Code Commissioners said: "We have abolished the poll list, . . . have made provision by which the great register will perform all the offices the poll lists were ever intended to perform. Experience has shown that the poll lists are prolific sources of fraud."[16]

Great Register. Before 1866 no adequate restrictions were placed upon prospective voters as is now done by the registration laws. This resulted in much confusion and frequent charges of corrupt practice whenever the elections were closely contested. The "Registry Act," so called because it required the registration of all prospective voters, was approved March 19, 1866. By its terms the county clerk was required to provide suitable books to be known as the "Great Register" in which were to be recorded the names of all domiciled inhabitants of the county who were qualified electors and legal voters thereof.

The form of the record and the manner of registration were set forth in the law and provided that clear and distinct entries should be made setting forth, in separate columns the name of the person in full; his age; the country of his nativity; his occupation and exact residence; and if a naturalized citizen, further data regarding his naturalization were required. These statements were then to be sworn to by the person registered and that fact stated in the record. A further column was provided for the record of the cancelation of the entry, the cause of the cancelation being stated by either of the words "dead," "removed," "insane" or "infamous."[17] To assist the county clerk in the registration of the voters the county assessor was required to enroll and return to the clerk the names of all unregistered persons entitled to registration. He was authorized to administer the oath in the same manner as the clerk, and for his work received a stated remuneration. In a few of the counties, as in Contra Costa and Humboldt, these assessors' returns have been preserved in the county archives.

[15] [illegible] 1867, ch. [illegible]

[16] [illegible] 1872, ch. [illegible]; repealed, Code Amdts. [illegible]

An amendment to the "Registry Act," which did not materially affect the manner of keeping of the records, was adopted in 1868,[19] but otherwise the original provisions were incorporated in the Political Code when it was adopted in 1872. At this time it was further provided that before the 5th of August, 1873, and every second year thereafter, each county clerk was to make out a copy of the uncanceled entries existing on the great register on the preceding first day of August. These names were to be arranged alphabetically according to surnames and numbered consecutively. These lists were then to be printed and copies distributed to each of the election precincts within the county and to certain other depositories, libraries and to electors applying for them. The clerk was also required to file and preserve all affidavits returned to him by the assessor or used before him for the purpose of obtaining registration.[20]

By a statute of 1878 it was provided that all qualified voters should register anew in the counties of Fresno, Kern, Tulare, Stanislaus, Merced, Amador, Butte, Nevada and Siskiyou,[21] and other amendments provided that in other counties the board of supervisors should have the power to require the new registration of voters whenever in their opinion the conditions demanded it.[22]

In 1895 a more thorough change was made in the registration laws. The data required upon the affidavit made by the applicant was now extended to include the full name of the registered person; his business or occupation; his age, height, complexion, color of eyes and hair; place of residence (ward and precinct); time and place of naturalization, if naturalized; the date of entry; post-office address; and whether or not the applicant was able to read the constitution in the English language; to write his own name; and whether or not he was prevented by any physical disability from marking his ballot.[23]

The clerk was now required to arrange the registration affidavits in precinct packages. At the end of the period of registration all these affidavits for the county were to be arranged alphabetically and the substance of them entered into separate precinct books.[24] From the data incorporated in these books printed copies of the great register were to be prepared either for the county as a whole or by precincts. In counties where it was not required that a new registration take place, supplemental registers were to be printed. These printed copies were then to be distributed among the officers, election boards, libraries, etc.[25] Since these contain all the data entered on the original affidavits they are a very valuable source of information.

[19] Stats. 1867–8: 647.
[20] Pol. Code, § [illegible]; Stats. 1873–4: [illegible]–115.
[21] Stats. 1877–8: 693–94.
[22] Pol. Code, § [illegible]; Stats. 1877–8: 29–27; 1880: 124.
[23] Stats. 1895: 228; Pol. Code, § 1096.
[24] Stats. 1895: 230; Pol. Code, § 1[illegible].
[25] Stats. 1895: 231–2; Pol. Code, § 1115.

Further amendments to the code in 1899 required that in all the counties of the state a new registration should be made on each even numbered year. At this time a few changes were also made in the data required on the registration affidavits; complexion, and color of eyes and hair were omitted; while on the other hand, the state in which one was born was now required as well as country of nativity.[26]

Within fifteen days after the close of registration the affidavits were to be arranged for each precinct alphabetically, in order of surnames. These, both originals and duplicates, were then to be bound into books and a printed index prepared for each book, the index to show names, ages, addresses and numbers of the voters as they appear in the precinct books.[27] In 1903, the Political Code was further amended to require that all affidavits of registration be preserved for at least five years from the date thereof, but that after the affidavits and duplicates had been preserved for that period they might, upon the order of the board of supervisors, be destroyed.[28]

The keeping of the great register was discontinued by an amendment to the code approved April 19, 1909, which specifies that the [illegible] register required to be kept for the registration of voters, and that the person charged with the registration of voters shall not copy the facts shown by the affidavits as a part of his duties.[29] These affidavits must be preserved for five years, but after that time may be destroyed. An index to the registration affidavits, giving numbers, names, ages, occupations and addresses, must be prepared within five days after the close of registration, and printed to the number of at least one hundred copies; a general index of all the precincts arranged alphabetically by precincts must then be made, one copy of which is to be kept in the clerk's office for public reference.

[illegible] made in the form of the registration affidavit. An amendment to the Political Code approved January 9, 1912, provides that the affidavit must show: the full name of the person; sex; occupation; [illegible]; country or state of nativity; exact place of residence; political affiliation; age; place of naturalization, if naturalized; date and place of marriage and name of person to whom married, if citizen; [illegible] required; the date of registration; post-office address; and [illegible] read the constitution, etc., as in the earlier affidavits.

The registration law as it now stands is not materially different from the [illegible] acts and amendments of which it is the [illegible]

outgrowth. It provides for the complete registration of voters in each even-numbered year. The registration affidavits must be made in duplicate. The data required upon them, while not so full as under the earlier acts, is somewhat more explicit and requires that the affiant sign the affidavit with his or her accustomed signature. These affidavits themselves form the great register, the originals being arranged alphabetically by precincts and bound in this order, while the duplicates are filed in a strictly alphabetical manner without any regard to precincts. Indexes to the precinct books are prepared and printed, containing the numbers, names, occupations and addresses of the electors as they appear in the registration books. A general index of these books, arranged alphabetically by precincts, must be bound and at least one copy kept in the office of the county clerk for public reference.[32]

The Great Register, since it included the names of all the voters in the county and gave a great amount of detailed information regarding each individual, can not be overlooked as a valuable source of information, both to the student of history and social science. It is, therefore, deeply to be regretted that it is no longer kept as a record and that even the affidavits may after a few years be destroyed. Some of the counties, realizing the value of this as a record, have provided for the continuation of the Great Register.

ELECTIONS

Election Returns. The act to regulate elections, approved March 23, 1850, provided that the election returns, consisting of the poll list and tallies, with a certificate attached thereto stating the number of votes each person received and the office to fill which such votes were cast, signed by the election officials, should be made up in duplicate, one set to be retained by the inspector and preserved for at least six months, the other set to be endorsed "Election Returns" and sent to the county clerk. The ballots were to be destroyed. The clerk was required, from the returns of the various precincts, to "estimate" the vote of the county and draw up and sign a statement of the same, containing the names of the officers voted for, the number of votes polled at each precinct by each candidate for the office, and the totals for the county, which statement was to be filed, together with the returns from each precinct, in the office of the court of sessions.[33] In 1855 the last phrase was amended to read "in the office of the county clerk."[34] In 1861 an important amendment was adopted, providing that the returns should be canvassed by the board of supervisors and the detailed statement of the result entered by the clerk upon the records of the board.[35]

[32] Pol. Code (1915), § 1694 *et seq.*
[33] Stats. 1850:101 *et seq.*
[34] " " 1855:161.
[35] " " 1861:

In 1863 the law was further amended by a requirement that the ballots, instead of being destroyed, should be strung on a thread or cord and enclosed with the returns sent to the county clerk. This enabled the board of supervisors to recount the ballots in case any elector so demanded. The ballots were to be kept by the clerk at least six months.[36] In the following year a record of challenges and oaths administered was required to be kept by the election officials and included with the election returns, but this law was repealed two years later.[37] In 1866 an amendment required the election board to keep, separate from the poll list, a list of voters, containing the names of all who voted, numbered consecutively on the left and with the poll list number placed to the right of each name. This list was to be included with the returns sent to the county clerk.[38]

In 1872 the election laws, with some amendments, were incorporated in the Political Code adopted that year. These changes were as follows: The ballots were to be sealed up in an envelope separate from the other returns, but otherwise sent in as before, and to be kept, unopened, by the county clerk for twelve months and then, if not required by court actions, to be destroyed. The returns sent to the county clerk, under seal in charge of a member of the election board selected by lot, were to include the copy of the great register (which had now taken the place of the poll list) upon which the names of those voting had been marked, all certificates of registration received by the election board, the list of persons challenged, one copy of the list of voters and one copy of the tally list and list attached thereto. As soon as the returns were canvassed the clerk was required to take the copy of the register returned and file it in his office.[39]

These provisions have remained in the code and are the present law with reference to election returns, except as herein noted. In 1899 and 1901 amendments were adopted which require that the election board must post outside of the polling place a copy of the result of the votes cast, and transmit one copy of the same, unsealed, to the county clerk, to be kept open to public inspection.[40] In 1899 a provision was inserted that any person desiring to vote shall write his name and address (or if unable to do so, have it written for him) on a roster of [illegible] 1905 a new section was added to the code which requires that the roster of voters shall be sealed up by the election board and sent, in the same manner as the other returns, to the county clerk, who shall open all the rosters of voters and keep them open for public inspection for one year.[41] In 1913 [illegible]

[illegible] Stats. 1901, 726.

provided that the list of voters, tally list, etc., theretofore required to be retained by the inspector, shall be sent to the county clerk and by him kept open for public inspection for at least six months.[42]

In a few of the counties are to be found election returns for the early periods. In Humboldt County especially they have been preserved for the years 1853 to 1872. Since they contain the names of voters in each precinct as well as the number of votes cast on each issue they are of great value. During recent years the election returns have ceased to be considered historical records and are kept only for a brief period for use in case of dispute. The Minutes of the Supervisors contain the result of the canvass of the returns and, in the absence of the returns themselves, constitute the most valuable record in reference to these matters.

Certificates of Nomination and Nomination Papers. These are temporary records and it is sufficient to consider them very briefly. Beginning with 1891 it is required that certificates of nomination made by conventions and nomination papers, including those filed for the purpose of getting the name of a candidate on either the primary or general election ballot, shall be filed, in the case of county offices, with the county clerk, who shall preserve them for two years and then destroy them.[43]

Verification Deputies. Under the Primary law, since 1909, signatures to nomination papers have been secured by what are known as "Verification Deputies." These are persons appointed by a candidate or his proponents according to form prescribed by law. The document by which such verification deputies are appointed shall be filed with the county clerk.[44]

Record of Nominations. The Primary Election law of 1911 contains a provision that the officer with whom nomination papers are filed shall keep a record in which he shall enter the names of all persons filing the same, the party, if any, and the time of filing. An amendment approved January 11, 1916, says that he shall enter the names of every person presenting nomination papers for filing, the name of the candidate, the title of the office, the party, if any, and the time of filing.[45]

Record of Delegates Elected to Conventions. In the general primary law of 1897 a section is included providing that the clerk must, in a proper book, record the names of all delegates elected to conventions, with certain data in reference thereto. In 1899 this provision was incorporated in the Political Code, but in 1901 was repealed.[46]

[42] Stats. 1913:226.

[43] Stats. 1891:[illegible]

[44] Primary law, Stats. 1909, 1911, 1913, Sec. 5.

[45] Stats. 1915, [illegible]

[46] Stats. 1897:115; 1899:47 *et seq.*; 1901:666.

Other Election Records. In addition to those here described there are many others of more or less importance. Their names, however, in most cases indicate the nature of their contents. Among these should be mentioned maps and descriptions of precinct boundaries, the record of official ballots, record of election officers, statements of candidates' expenses, etc.

In Napa County was found a "Register of persons voting and when," covering the years 1876-1878. This is an interesting record, showing by means of columns, extending across double pages, the registry number, name of voter, age, occupation, citizenship (native or naturalized), residence, precinct voting in, with columns to show the record of the vote for a period of six years.

MARRIAGE AND PUBLIC HEALTH

Marriage Licenses. The Civil Code (March 21, 1872) first set down [illegible] of a marriage license preceding the performance of the marriage ceremony, section 69 of which provided that the parties wishing to be married must first obtain a license from the clerk of the county court showing: 1. the identity of the parties; 2. the real and full names and places of residence; 3. that they are of sufficient age to be able to consent to marriage; 4. that if the male is under twenty-one or the female under eighteen, that the consent of the parent is given or that the party had been married before.

Two unimportant amendments were made in this section of the code[37] before 1905, when it was more thoroughly revised.[38] It is now required that the applicant must show upon oath the facts demanded in the earlier law, while marriages between certain races, or the marriage of imbeciles, insane persons or persons under the influence of intoxicants are forbidden.[39]

There is no uniform rule followed by all the clerks in reference to marriage records. By some the stubbooks, from which the licenses have been detached, are carefully preserved, but others make little or no attempt to preserve them. Many but not all retain the affidavits. The marriage records kept by the recorder are much more satisfactory.

Record of Medical Certificates. The first of a series of acts regulating the registration of persons engaged in professions having to do with the public health of the people of the state was enacted April [illegible], 1876, creating a state board of examiners who were to grant medical certificates to such persons as were qualified to practice medicine [illegible]

purpose the clerk was to keep a book which would contain a complete list of the certificates recorded by him.[50] In 1901 this act was replaced by a new law providing for a board of medical examiners but prescribing for the county clerk duties similar to those previously required.[51]

Register of Dentists. On March 12, 1885, an act requiring the registration of dentists was passed. A board of examiners was created to pass upon the qualifications of applicants and it was made unlawful for dentists who were not already practicing to begin practice without first obtaining a license. Practicing dentists were required to file their names for registration with the county clerk within a period of six months, and all new applicants who had been granted licenses were to register before beginning their practice. For this purpose the county clerk was required to keep a book to be known as the "Register of Dentists." An amendment was made to the act in 1893, and a more complete change in 1901, but neither affected the manner of keeping the clerk's record.[52]

On March 20, 1903, further changes were made, among them being the requirement that the applicant give his name, age, office address and number of his license; and in addition file an affidavit that he is the party mentioned in the license. The affidavits were also to be placed on file in a bound volume.[53]

Register of Osteopaths. On March 9, 1901, the State Board of Osteopathic Examiners was created, with power to pass upon the qualifications of persons applying for osteopathic licenses. These licenses were to be recorded with the county clerk in a manner similar to other medical licenses in a book known as the "Register of Osteopaths."[54] On March 14, 1907, the State Board of Medical Examiners was reorganized to include members of the Osteopathic Association and to them was given the power to grant licenses to osteopaths. The clerk was required to keep a record of all certificates filed with him. These are kept in the same volume known above as the "Register of Osteopaths."[55]

Register of Optometrists. On March 20, 1903, the California State Board of Examiners in Optometry was created. Certificates were to be granted by them to persons qualified to practice optometry. These were to be presented to the county clerk for record and placed in a record book provided especially for that purpose.[56]

Register of Pharmacists. The State Board of Pharmacy was created in 1891 but the law required no records of licenses to be kept

[illegible]
[illegible] 1907:556-64; 1907:955; 1913:734.
[illegible]
[illegible] 1903:[illegible]
[illegible] 1901:113
[illegible]

other than those of the board itself until 1905, when another act was passed which provided that the county clerk keep a record of certificates granted by the state board in a manner similar to other medical certificates.[77]

PERTAINING TO PRIVATE BUSINESS CONCERNS

Articles of Incorporation. All the laws regarding corporations have required the filing of the articles of incorporation, but before 1872 there was no uniformity as to the place where they should be filed. In the majority of cases they were to be filed in the office of the county clerk, but in some instances it was required that a certified copy should also be filed in the office of the secretary of state; while in other cases the original articles were to be filed in the office of the secretary of state.[78] In a few cases the articles were to be filed in the office of the county recorder.[79]

In 1872 the corporation laws were codified in the Civil Code and it was provided that all articles of incorporation shall be filed in the office of the county clerk of the county where the business of the corporation is to be transacted and a copy filed in the office of the secretary of state.

These articles of incorporation are of great value to any person interested in the history of any incorporated body such as business companies, churches, fraternal societies, private schools, etc. They usually contain a statement of the purpose of the organization or its constitution and by-laws, the names of its directors or officers, if not its whole membership, the date of organization, and other information of this character. In many cases later documents are filed or recorded showing changes in officers and containing financial and statistical reports. As a usual thing the original articles are filed, although in some cases they have been copied in full into a record book. An index to corporations almost invariably accompanies these articles.

Rural Cemetery Associations. In 1859 a law was passed providing for the organization of such associations. The officers were required to [illegible] the county clerk a certificate similar to articles of incorporation. [illegible] certificate the clerk shall record "in a book appropriated [illegible] recording of articles of incorporation."[80]

Bond and Surety Companies. In 1907 an amendment to the Political Code required the county clerk to keep as one of his records a [illegible] labeled "Bond and Surety Companies," the pages of

which must be divided into columns for entering the name of the corporation, name of state, territory or country under whose laws it is organized, date of the certificate to do business in this state, date of surrender, revocation, etc., of such certificate, date of new authority to do business.[63]

Firms Under Fictitious Names. The Civil Code in 1872 provided that on a change of membership in a firm continuing the use of a partnership name the person acquiring the right to use such partnership name must file with the county clerk a certificate stating the name of each person dealing under such name and the place of residence of each member. The clerk was required to keep a register in which he must enter in alphabetical order the name of every such partnership and of each partner therein.[64] In 1874 amendments to the code made these provisions more specific. It is required that every person or partnership doing business under a fictitious name must file with the county clerk a certificate stating the name and residence of each member. The clerk must keep a register in which must be entered in alphabetical order the name of every person doing business under a fictitious name and the name of every such partnership and of each partner thereof.[65]

RELATING TO OTHER OFFICERS

In addition to those records that pertain to the duties of the clerk himself, his archives usually contain many records of, or relating to, other officers, which have come into his possession as clerk of the county and therefore custodian of many documents and reports.

Federal Census Returns. The act of March 23, 1850, which provided for the taking of the seventh and subsequent censuses of the United States required that "Each assistant shall, within one month after the time specified for the enumeration, furnish the original census returns to the clerk of the county court of their respective counties, and two copies, duly compared and corrected, to the marshal of the district."

For the census of 1860 there were no changes made in the law, as the only legislation regarding the taking of the census was contained in the appropriation acts. Before the census of 1870, an act was passed amending the law of 1850 by extending the time for making the reports and making a few minor changes.[66]

Since the census of 1850 was taken before the counties of California were fully organized it is but a natural consequence of the time that none of the returns of that year are to be found in the county archives. There are, however, reasons for disappointment in that not more of these

[63] Stats. 1907:405; Pol. Code (1915), § 1178.
[64] Code Amdts. 1873-4:253; Civ. Code (1915), §§ 2466-70.
[65] U. S. Stats. 31st Cong., 1st s. s., Ch. 11 (1850); 41st Cong., 2d s. s., Ch. 55 (1870).

returns for 1860 and 1870 have survived. For the former year, only Del Norte and Yuba have preserved them; for 1870, Alameda, Humboldt, San Francisco and Santa Barbara. The great value of these returns to the historical worker is too well known to require much stress. An examination of the published census reports indicates the wide range of information gathered by the census marshals. It should, however, be noted that these original returns contain not only the facts shown in the published reports but much more detailed information as well, for in them the unit is the individual, not the state or county.[7] At the time of the census of 1880 a new act was passed, section 6 of which requires:[8]

> "Each enumerator, immediately after completing the enumeration of the population of his district and before forwarding the same to the supervisor, to make and file in the office of the clerk of the county court or in the office of the court or board administering the affairs of the county to which his district belongs a list of the names, with age, sex, and color, of all persons enumerated by him, which he shall certify to be true."

The laws for all the later censuses have omitted this requirement. Three counties, Humboldt, San Joaquin and Santa Barbara, contain these lists. Since they are merely lists of names they are of little value as compared with the returns of the earlier censuses.

Humane Officers. Section 667 of the Civil Code provides a method for the appointment of humane officers by boards incorporated for the prevention of cruelty to animals, subject to the approval of the judge of the superior court. An amendment to this section, passed [illegible], provides that the county clerk shall enter in a book called the "Record of Humane Officers," the name of every officer so appointed, the number of his badge, name of the corporation appointing him, and date of filing of the appointment.[9] While these books are to be found in most of the counties, they, as a rule, contain very few entries.

Justice Court Dockets. As the name implies, this is a docket kept by the justice of the peace. Since the law does not require that all justice court dockets be deposited with the county clerk these records are not to be found in all the counties, and even where they are found they are usually incomplete, both as regards the period of time and portions of the county covered. For the earlier years they have been found to be of greater value historically than the records of [illegible] years.

Other Records. Besides the records above enumerated, a number of others are frequently found, for whose presence in the clerk's

office there seems to be no very specific statutory or code provision. Among the more important of these the following should be noted: Notarial records; Coroner's registers; Public administrator's register, and various other reports and account books.

THE RECORDER

GENERAL PROVISIONS

One of the two most important record officers in the county is the recorder, for though he does not have the variety of duties and records that pertain to the clerk, his records are just as essential in a well ordered system of government. While the duties of the clerk are largely administrative and his records are accumulated as a result of his administrative activity, the recorder is essentially an archivist, his chief and only duty being to see that the instruments presented to him are properly transcribed into permanent record books or otherwise safely filed.

Since 1850, when the office was created, the duties have gradually been increased through statutory provisions requiring that additional kinds of instruments be recorded. The act which created the office of county recorder, set forth his duties to be as follows:

> "The Recorder shall have the custody of and shall safely keep and preserve all the books, records, deeds, maps, and papers deposited and kept in his office, and it shall be his duty to record or cause to be recorded correctly:
>
> 1st. All deeds, mortgages, releases of mortgage, conveyances, deeds of trust, bonds, covenants, powers of attorney, leases, transcripts of judgments, or other instruments of writing, whereby any real estate is conveyed or may be affected, which shall have been proved or acknowledged according to law and authorized to be recorded.
>
> 2nd. All papers and documents found in or transmitted to their respective offices, of and concerning lands or tenements, and which were received from the Mexican authority at the change of government.
>
> 3rd. All marriage contracts and certificates of marriage.
>
> 4th. All commissions and official bonds required by law to be recorded in their offices.
>
> 5th. All transcripts of judgments from the District and Justices' Courts which by law are made liens upon real estate and matter of record."

Other sections provided that "the several classes of instruments of writing mentioned in the several subdivisions of the preceding section, shall be recorded in separate books, according to their classification [illegible] the recorder should also keep a set of books "for the registration of the separate property of the wife, and shall record all instruments in writing relating thereto, in the manner prescribed in this Act for the recording of other instruments required to be recorded."[1]

[illegible]

Since 1850 many other kinds of records have been added to the list of documents authorized or required to be recorded. In 1851 the following five sets of records were specified in addition to those previously named: Wills admitted to probate, mechanics' liens, notices of attachment on real estate, notices of pendency of an action affecting real estate, and notices of pre-emption claims.[2]

At the time of the adoption of the Political Code in 1872 a list of instruments which must on application be recorded was incorporated. This list is practically the same as that adopted in the statute of 1851, with the addition of the following titles: grants, mortgages of personal property, and births and deaths.[3] The provisions of the present code are as follows:[4]

> "He must, upon the payment of his fees for the same, record, separately, in a fair hand, or typewriting, in large and well-bound separate books, either sewed books or an insertable leaf, which when placed in the book cannot be removed:
>
> 1. Deeds, grants, transfers, and mortgages of real estate, releases of mortgages, powers of attorney to convey real estate, and leases which have been acknowledged or proved.
> 2. Mortgages of personal property.
> 3. Certificates of marriage and marriage contracts.
> 4. Wills admitted to probate.
> 5. Official bonds.
> 6. Notices of mechanics' liens.
> 7. Transcripts of judgments, which by law are made liens upon real estate in this state.
> 8. Notices of attachments upon real estate.
> 9. Notices of the pendency of an action affecting real estate, the title thereof, or the possession thereof.
> 10. Instruments describing or relating to the separate property of married women.
> 11. Notices of pre-emption claims.
> 12. Births and deaths.
> 13. Certified copies of decrees and judgments of courts of record; and.
> 14. Such other writings as are required or permitted by law to be recorded."

Realizing that the documents must not only be copied into books but that they must be carefully and permanently preserved and also made readily accessible to the public, the legislation on the subject has always specified that the recorder shall keep "suitable well bound books, wherein shall be recorded in fair and legible hand all instruments of writing authorized or required to be recorded."[5] Other sections required the keeping of an index to each volume of records as well as a

[2] Stats. 1851: 200-201.
[3] Pol. Code 1872, c. 3, §4457.
[4] Pol. Code (1915), §4131. Few references to acts of 1917 and later appear in the notes as the survey of the archives was then already practically completed.
[5] Stats. 1850: 424, S. 6, 3.

general index." Since the indexes are so constantly used by attorneys and searchers of titles they are as a rule prepared and preserved with as much care as the records themselves. With the changes brought about through the invention of the typewriter and insertable leaf record books the statutes were modified to permit the use of these new forms.[7]

PRE-STATEHOOD RECORDS

From the historical point of view the most interesting documents in the archives of the counties are those dealing with the period before the formation of the state government in California. Since these are unique in character and are of such great value they have been listed separately in the main body of this report. While not all of the volumes or documents listed as pre-statehood records are to be found in the office of the recorder, the greater part of them are so located; it is therefore appropriate that they be considered in connection with the records of that office. They may be divided into four classes: the first two divisions, which are almost entirely in Spanish, contain records relating to the Spanish and Mexican periods; the others for the period of conquest, 1846-1848; and the gold era, 1849-1850.

Early Spanish Period. Fortunately there have been preserved in our local depositories records pertaining to that period when the first Europeans took possession of what they then called Alta California. Although but fragments of the original great body of records, they nevertheless constitute a most valuable source of information regarding conditions and events during that most distant past. The great bulk of the official Spanish manuscript documents relating to California, which came into the possession of the United States upon the transfer of sovereignty from Mexico, were placed in the custody of the United States surveyor-general, bound in some three hundred volumes, and housed in San Francisco. Unfortunately the great fire of 1906 destroyed all but about a score of these volumes and left the remainder in a condition which renders them almost incapable of use.

Before the disaster which so nearly wiped out the archives of the surveyor-general, a portion of the documents had been returned to the separate counties. With the loss of the general archives the importance of these smaller, less complete collections has been increased. The researches of this commission have shown that records of this character are to be found among the archives of several of the counties and cities. The largest and undoubtedly the most valuable of the local collections is that in the archives of the recorder of Monterey County. This collection consists of sixteen volumes of bound documents dating from 1781

[6] [illegible] Stats. 1905, 42, 96.
[7] [illegible] 47, 48.

to 1850. In most cases these are the original documents and were bound while in the possession of the surveyor-general. They include the official reports of the local Spanish governmental and mission authorities, letters, addresses, proclamations and records of petty court proceedings. Since Monterey was for many years the capital of Alta California these documents doubtless contain much very valuable information. In the county archives at Santa Cruz are to be found somewhat more than five hundred original documents covering the period from 1797 to 1845 similar in character to those just described. Search in the other county archives met with disappointment, for in many, where it was expected that Spanish records would be located, none were to be found. In some places, however, a search revealed documents of a similar character in the city archives; this was especially the case in San Jose, one of the old pueblos of the Spanish regime. In the vault of the clerk of that city were found six volumes labeled "San Jose Archives." These contain original documents dating from 1792 or earlier down to the end of the Mexican period. The unsystematic manner in which the documents were bound prevented anything like an accurate description of the range of subject matter or dates covered in these volumes, except by a more complete examination than was possible in this preliminary survey. That these collections of documents will prove most valuable to the student of Spanish provincial and local history there can be no doubt.

Mexican Régime. As might be expected the records relating to the period of Mexican control are much more numerous and varied in their nature. These documents may be grouped into two general classes: First, those relating to land titles; and second, those which were formed as result of the administration of the government. The former are more widely distributed among the counties, but the latter are more varied in their character. The two most important collections of records relating to this period to be found in the local archives are in those of Los Angeles and San Francisco. In Los Angeles, one volume, "Record Book A," contains alcalde documents covering the dates following 1825. Accompanying it are volumes of documents relating to the prefecture of Los Angeles from 1834 down to the American period. With these are other documents apparently of more local character which are in the custody of the clerk. In addition to these records in the county archives, there are other volumes for the same period in the archives of the city, among them being minutes of the ayuntamiento, land petitions and financial records. In San Francisco the number of records extant for this period is greater than in Los Angeles, although it is doubtful that they are as important historically, since they relate almost entirely to land titles and matters of a local nature.

Other records in Monterey, Santa Clara, Santa Cruz, Sonoma and elsewhere deal almost entirely with land titles during these years. In contrast to these land records which may appear to be more or less uninteresting is a book of unique character in the archives of Monterey County, namely the "Record of Official Acts of Thomas O. Larkin." Although the record itself is short, it gives an excellent idea of the varied nature of the duties of Larkin as consular agent of the United States government in California, when it was still under control of a foreign power.

Period of American Conquest, 1846-48. Records dealing with events during the period of the conquest of Alta California by the United States forces are to be found in the archives of Los Angeles, Monterey, San Francisco and Sonoma, the chief centers of interest during those years. In Los Angeles and Monterey these are in the form of documents bound together with those of the earlier regimes; in San Francisco and Sonoma, on the other hand, they are more voluminous and maintain their identity in separate volumes. In San Francisco the greater part of these relate to land matters, being either the register of property acquired under the Mexican government, or the record of sales by the local alcalde or magistrate, as in the case of alcalde grants and the sale of beach and water lots. But there are some miscellaneous records which contain items of more than common interest and an occasional book of peculiar character, such as the ledger of Alcalde Bartlett for the year 1846-47, which appears to be a full financial report of the receipts and expenditures of the local government for this period. The Sonoma records are of interest in view of the importance of that place as a settlement and of the part taken by it and its inhabitants during and following the Bear Flag revolt in June, 1846. They consist of a docket of the Justice Court at Sonoma, August, 1846-April, 1847, alcalde records, land claim records and deed books.

The Gold Era, 1849-59. The era of the conquest was quickly followed by the discovery of gold and the resultant influx of population. The transition period was short, the balance being shifted rapidly from the old easy-going Spanish way of doing to the more aggressive Anglo-Saxon mode of life. As a consequence in any of the records since no break whatever until the adoption of the state constitution in 1849 the forms of local government were not changed from the earlier system. The local records during this period are therefore most interesting and valuable for they show how the Spanish Americans took a great part in organizing and developing the new institutions, especially the office of alcalde and the court of first instance, both of which were essentially Spanish in nature. Under anything in the Anglo-Saxon form of government, its powers and duties of the alcalde were extensive and to

some extent autocratic. The following description of the alcalde is well illustrated in the documents in the county archives:

> "Studying his multifarious functions, we discover with admiration, not unmixed with awe, that one and the same person was often supreme judge, clerk of court, town-constable, sheriff, recorder, treasurer, justice of the peace, land-officer, government-agent in land deliveries, superintendent of roads, town board of health, board of school-trustees, arbitrator in petty disputes, general advisory board for young and old, and even, near the coast, judge in admiralty to pronounce upon all marine cases."[1]

Although the records of many of these interesting officials have doubtless long since disappeared, there are preserved in the county archives dockets, ledgers, and other records originally belonging to the alcaldes. The counties in which alcaldes' records have been found are as follows: Contra Costa, El Dorado, Marin, Monterey, Napa, Sacramento, San Francisco, San Luis Obispo, Santa Clara, Santa Cruz, Sonoma, Sutter, and Yuba.

The records of courts of first instance are found in many cases to accompany the records of the alcaldes. In Los Angeles and Santa Clara they date from 1847, but in the other cases they are for the period following September, 1849, when by Governor Riley an attempt was made to put into execution the full form of government as prescribed by the laws of Mexico.[2] These are to be found in Sacramento, San Joaquin and Solano counties.

RECORDS RELATING TO PROPERTY TITLES

Unquestionably the most important records to be found in the office of the county recorder are those relating to property titles. Since it is recognized that the security of the title of property depends very largely upon its being recorded in the proper manner, practically a full record of property transfers is to be found in these archives. For the convenience of this discussion the records relating to the title of property have been subdivided into three classes: first, those dealing with the acquisition of the original title; second, those relating to the transfer and encumbrance of property; and third, miscellaneous property records.

ACQUISITION OF ORIGINAL TITLE

Land Claims. From the historical point of view those records which relate to the original acquisition of the land are of great value in showing the beginnings of settlement in a new region. In those parts of the state that were not covered by Spanish and Mexican land

[1] Shinn, Mining Camps (New York, 1885), pp. 103-104.
[2] Proclamation of June 3, 1849. House exec. docs., 31st cong., 1st sess., No. 1, pp. 777-778.

grants this process is shown in the records of claims for pre-emption or possessory rights, school lands, and swamp and overflowed lands. Although the public lands of California were not open to pre-emption under the federal law until 1853, the legislature, as early as April 11, 1850, passed an act recognizing the right to title of any person occupying or settling upon land belonging to the United States.[1] Since 1851 the recorder has been required to keep a separate record for these pre-emption or possessory claims.[2] By numerous federal enactments lands had been ceded to the states for educational and other purposes. Through these, California came to control a very large share of that part of the public domain which lay within its borders.[3] By a law adopted May 3, 1852, it was provided that the state school lands should [illegible] of 160 acres, issued warrants, which were sold to individuals [illegible] unoccupied government land. The owner of [illegible] warrants selected the amount due him through the [illegible] and the action was entered in the record of school lands or school land surveys. This system of land warrants was found unsatisfactory and after 1858 the law was repealed. The state school lands were then located and sold by the state agents in a more direct [illegible]

Swamp and Overflowed Lands. The swamp and overflowed lands granted to the state by the act of September 28, 1850,[4] were first put [illegible] sale in 1855, the survey of the land being made by the county surveyor upon petition of the applicant. The record of this survey, together with the claim to the land, was filed with the county recorder.

Spanish Land Grants. In those counties where land was held under a former Spanish or Mexican title the process of acquiring title was naturally very different. The basis of the claim in those cases was the Spanish or Mexican grant. In many cases the original grant, together [illegible] [illegible] [illegible]

granting the land described to the patentee. In the case of the old Spanish ranchos the patent is usually accompanied by a history of the grant under the Spanish and Mexican regimes. They are invariably accompanied also by a map of the rancho.

Mining Claims. Of a somewhat different nature and yet closely related to real estate titles are the mining and water claims, for in them the person acquiring title secures only the right to use the land for a certain specified purpose. The mining records are by far the more numerous and on account of the unique position of mining in early California history also the more interesting historically. The record of mining claims usually contains a notice setting forth the name of the claim and that of the locator with date, size and description. In some of the leading mining counties these are entered in separate books divided as to quartz claims, placer claims, etc., with further titles for other kinds of mining records. In the counties less given to mining the records are more simple if they are found at all.

Special attention should be given to the mining district records. These are of great historical value, since they show not only the extent of territory covered in the early days of mining operations but also the ideas these rugged pioneers had of law and government, for each of these mining districts was to a large extent a government by itself. The miners met, outlined the boundaries of the district, and determined the manner in which claims should be acquired and held. Most of these district records were kept only by a district recorder and in probably a large majority of cases the records have been lost. In some cases the mining district records, together with filings for claims in such districts, were handled by the county recorder as a part of the county records. In these cases they were recorded in books devoted entirely to mining claims or are to be found in Deeds, Miscellaneous Records, or similar record books. By a law approved March 27, 1897, all mining district recorders and custodians of records of the several mining districts in the state were required to transmit to the county recorder all records of the district, the recorder being considered the legal custodian of such records. As result of this act many district record books have been deposited with the county recorders, but it is very probable that many of these records are still outside of the county archives.

Water Rights. Records regarding the appropriation of water rights begin with the adoption of the Civil Code in 1872, it being provided in section 1415 of that code that a person desiring to appropriate water must post a notice at the point of intended diversion, stating his claim to the water to the amount desired, the purpose for which claimed, the place of intended use, and the means by which he intended to divert it, together with a statement of the size of the flume or pipe

Within ten days after posting the notice by the claimant he must present a copy of the same to be recorded by the recorder of the county within which it was posted.[6] This the recorder was required to record in a volume kept for that purpose. Appropriations of water are now governed by the act of August 10, 1913, which created the state water commission. This act made the process of securing water rights much more complicated and there have been relatively few rights recorded under its provisions.[7]

Oyster Beds. An act of April 28, 1851, permitted the planting of oysters in any of the waters of the state below low water mark, if there was not already a natural growth of oysters there. Natural oyster beds were not to be staked off. No one was to be permitted to enter any waters marked off as oyster beds, provided these did not impede the free navigation of the streams. There was no requirement that the location of these beds be filed with any official.[8] On April 2, 1866, an act was approved which permitted the discoverer of an oyster bed to appropriate the same to his own use and benefit. Within ten days after the discovery he was to stake off the bed and file a description of the same in the county or counties wherein it was located.[9] The provisions of these two acts were embodied in a new act passed March 30, 1874, entitled "An act to encourage the planting and cultivation of oysters." This act permitted any citizen of the United States to lay down and plant oysters in any of the public waters of the state, provided they did not thereby obstruct navigation. The locator was to display a conspicuous sign marking the oyster beds, and to stake off and fence the lands used for this purpose. Full description of the bed was then to be filed with the recorder in the county wherein the bed was located. The recorder was then to record the same in a book entitled "Record of Oyster Beds."[10]

TRANSFER AND ENCUMBRANCE OF TITLE

Deeds. The transfer of property may be made either by voluntary agreement on the part of the former owner or it may be done by legal process. Those documents that effect a permanent transfer of property by agreement of the former holder of the title are usually known as deeds, conveyances for real estate, or bills of sale for personal property.

By far the most extensive series of volumes to be found in the recorder's office is that devoted to the recording of deeds. It is also, from nearly every standpoint, the most important, and consequently the one most constantly referred to. For these reasons greater attention is usually given by officials to the deed books and they, together with

their all-important indexes, are practically without exception in good usable condition and well cared for. It is to be noticed that in several counties during the first few years the different kinds of records were not all segregated into separate volumes, but were recorded together in a book labeled simply "Records." When, finally, different books came to be used for different kinds of instruments, these early volumes of Records were generally numbered as the first volumes of Deeds, since deeds composed the greater part of their contents. The result is that many of these early deed books might more accurately be described as Miscellaneous Records. At all times the term Deeds has been used in a comprehensive sense to include all instruments by which title to land is transferred. In recent years it has become quite customary to put deeds of trust into a separate series, and in many counties, particularly where the quantity of records is large, it is usual to devote certain volumes of the regular deed series to special kinds of deeds—trust, reconveyance, mining, etc., for which frequently printed forms are used—and to use form books numbered in the regular series for deeds executed by certain land companies doing a large volume of business.

Wills and Decrees of Distribution. When transfers are made by bequest the documents relating to the change in title may be found in the records connected with probate proceedings. In those cases involving the title to real estate the record is kept in the recorder's office in addition to the record of the probate court. Forty of the counties have separate volumes entitled "Wills" or "Wills admitted to probate." There is also to be found in the archives of the recorders of about one-third of the counties a separate record known as Decrees of Distribution or Decrees of Partition containing a copy of probate decrees by which an estate has been divided among the heirs. In about half the counties a separate index is kept for these documents, although the decrees themselves are recorded in books devoted to deeds or miscellaneous records.

The Torrens System. By an act approved March 17, 1897, what is known as the Torrens system of certification of land titles is provided for in this state. With the exception of a few counties, notably Los Angeles, San Diego and San Francisco, land owners have not very generally availed themselves of the provisions of this act. The law provides that the recorder of each county be the registrar of titles for that county. Land is brought under the act by the filing with the clerk of a verified petition to the superior court by the owner of any estate or interest in such land. This petition must contain detailed information necessary for the establishment of the title. The clerk is required to endorse on this petition the exact time of its presentation and enter it in a book kept for that purpose and known as the Land

Register Docket. This petition is examined by the court and, after proper notice has been given and published, a date is set for a hearing, at which time all interested in the land in question may appear and be heard either for or against the granting of the petition. At the conclusion of this hearing action is taken by the court. If the petition is granted a decree of the court is issued setting forth the fact and including a description of the land and a statement of all liens and incumbrances upon it with particulars of the same.

Upon the filing of a certified copy of this decree the registrar is required to issue in duplicate a certificate of title, the original to be kept by the registrar and the duplicate given to the owner. The registrar must keep a book called Register of Titles, in which he must enter all original certificates of title, in the order of their numbers, with appropriate blanks for the entry of memorials and notations. Each certificate with its accompanying blanks shall constitute a separate folium of such book. All instruments, notices and papers required or permitted to be filed in the office of the registrar shall be retained and kept in the office and removed only upon proper court order. Certified copies may, however, be made. When registered land is sold or otherwise transferred, a new certificate is issued and the old one canceled.

Besides the Register of Titles, the registrar is required to keep two indexes: (1) A Property Index, with pages divided into columns for entering the section or subdivision, range or block, township or lot, and any other description necessary to identify the land, the name of the registered owner, the volume and page of the register in which the land is registered; 2) a Name Index, divided into columns showing in alphabetical order the names of all registered owners and all other persons interested in or holding charges against registered land, the nature of the interest, description of the land, the volume and page of the register in which the land is registered. The act requires the use of a uniform system of books, blanks and forms prepared by the attorney-general, state controller and secretary of state."

In 1915 this law was superseded by another initiated and adopted at the November election. The new law, which was simply a revision of the act of 1897, removed some objectionable features and introduced some new features with the result that the system is much more attractive. The two most important changes may be noted very briefly: (1) doing away in large numbers of cases with the requirement for abstracts and special maps or plans of surveys; 2) the provision for a "Torrens Title assurance fund," which is in effect state title insurance for land [illegible]

Leases and Mortgages. Temporary transfers or encumbrances upon property are made by means of leases and mortgages. The nature of both of these is so well known that they require no explanation here. Practically all the counties have separate sets of records for each of these classes of documents. In the case of mortgages there has been an increasing tendency to differentiate those relating to real estate from chattel or crop mortgages.

Although mortgages on personal property have been permitted since the first session of the state legislature, formerly they were very much more limited than at present.[13] By subsequent legislation the early restrictions placed upon chattel mortgages have gradually been removed. By the act of May 11, 1853, certain personal property mortgages were declared to have the same effect as mortgages upon real estate. The kinds of personal property specified, however, confined the mortgage to possessory claims to public lands, buildings and improvements upon such lands, quartz claims, and such other personal property as was by its structure fixed to the soil.[14]

On April 29, 1857, an amendment was passed enlarging the list of personal property subject to mortgage and since that time many acts have been passed with the same purpose in view.[15] Upon the adoption of the Civil Code in 1872, the list was incorporated into the code with some additions, the most important being that relating to growing crops. It was also at this time provided that mortgages of personal property must be recorded both in the county in which the mortgager resides and in the county in which the mortgaged property is situated, or to which it may be removed. This requirement is still retained in the code.[16] In practically all the counties chattel mortgages are given a separate set of records. In about a dozen counties crop mortgages are placed in separate volumes.

Releases, Satisfactions and Assignments. Releases and satisfactions of mortgages and leases are usually recorded in a set of volumes different from the mortgages and leases themselves; however, upon this point there is no uniformity. About one-half of the counties have a set for the releases or satisfactions of mortgages, while about one-third include both mortgages and leases in the same record book.

In practically all of the counties a separate volume is kept for the purpose of recording assignments. In general these are entitled assignments of mortgages and leases, although they frequently include assignments of agreements and judgments as well. In 1872 the Political Code provided that an assignment of a mortgage might be recorded, in which case the record became a notice to all persons subsequently deriving

title from the assignor.[17] In many cases assignments of leases are recorded in the same volume with the assignments of mortgages, although frequently separate volumes are used.

The law requires that an index be kept labeled "Assignments of Mortgages and Leases—Assignors," each page of which must be divided into five columns showing assignors, assignees, instruments assigned, date when and where recorded. In similar manner another index must be kept in which the names of assignees will be placed in the first column and arranged alphabetically.[18]

Of somewhat different character are assignments in bankruptcy or assignments for benefit of creditors. It is provided in the Civil Code that an assignment for the benefit of creditors must be recorded and an inventory filed with the recorder.[19]

Homesteads. In a negative manner the records relating to homestead exemptions should be included with the records dealing with conveyances of property titles. Under an act passed in 1851 the law provides that under certain conditions the homestead, consisting of a quantity of land together with the dwelling house thereon and its appurtenances not exceeding in value $5,000, selected by the owner, should not be subject to forced sale on execution or to any other final process from a court for debts contracted after the passage of the act.[20] Amendments made in 1860 extended and modified the terms of the original act.[21]

As to the manner of recording it is provided that the person or persons asking for the homestead right should have the declaration acknowledged and recorded as any other conveyances affecting the transfer of real estate. A separate record was to be provided for these homestead declarations. In like manner the declaration of abandonment of homestead was required to be acknowledged and recorded. Another act extended the privilege of the homestead act to unmarried persons and required that the applicant, upon receiving the homestead title, should have it recorded in the office of the county recorder in a book to be called Register of Homesteads of Single Persons. In ten counties abandonments of homesteads are recorded in a separate volume or series of volumes. In all other counties homestead records of all kinds are recorded in a single series and indexed in the same way.

Tax Sales. Not all transfers of title result from the voluntary action of the parties, however, for on account of the nonpayment of taxes or assessments for public improvements the state or some of its subdivisions may sell the property, or for other causes similar results may be brought about by proceedings in the civil courts.

The method of enforcing the collection of taxes on real property has been the subject of frequent legislative enactment since the creation of the state government in 1850. There is no purpose here to enter into a history of the legislation upon the subject, but merely to outline it as briefly as possible, with particular reference to its bearing upon the records of the recorder.

Under the first revenue bill, approved March 30, 1850, it was provided that the treasurer should collect the taxes. No publication of a delinquent tax list was required, it being merely provided that if the taxes on real property were not paid by the required date the property should be sold, after notice, by the treasurer. The treasurer was to execute a deed of conveyance to the purchaser, acknowledge the same and file it in the office of the recorder. The property might be redeemed within a year, but if not so redeemed the deed became absolute.[22] The following year the sheriff was made ex officio tax collector, the provisions for the sale of real property for taxes remaining otherwise the same. After the sale the sheriff was required to execute a certificate of conveyance to the purchaser and deposit the same in the office of the recorder. After the expiration of a year, if the property was not in the meantime redeemed, the sheriff was to make a deed to the purchaser.[23] The revenue act of 1852 declared, as had the previous one, that every assessment is a judgment and has the force of an execution against the property and party liable for taxes. The sheriff was required to seize and after notice sell property on which taxes remained unpaid. There seems to have been no specific provision made for redemption.[24] In 1853 the provisions for sale of real estate for taxes were in general the same as in 1851, but now the sheriff, after the sale, was required to execute a certificate of conveyance of sale and deliver a certified copy to the purchaser. The recorder, on being paid his legal fee, was to record this certificate. Six months were allowed for redemption and after that period the sheriff was to execute a deed of conveyance in fee simple and the sale became absolute.[25] This system remained in effect until 1857, when some modifications were made in details of the law. In this year the tax collector was first mentioned in the general revenue bill. This year also for the first time there was a requirement of the publication of a delinquent tax list. The procedure for sale was the same, but after the sale the tax collector was required to issue to the purchaser a certificate in duplicate. The tax collector was also required to keep a book for the purpose of entering a record of lands sold for taxes. The recorder was required to keep a book

[illegible]
[illegible] 1851 : 153 *et seq*
[illegible] 1852 : 15 *et seq*
Stat. [illegible] : 223 *et seq*

similar to that of the tax collector. If the property was redeemed within six months the fact was to be noted on the certificate and on the margin of the book. If no redemption was made within six months, the tax collector was to make, upon demand, a deed which should give a valid title to the property.[36]

In 1861 a radical departure was made from the former method of enforcing the collection of taxes on real estate. By the revenue law of that year and by a supplemental act, it was provided that after the publication of the delinquent tax list, this list was, after a specified period and after due notice of the fact, turned over to the district attorney, who was required to bring civil suits in the courts for the amount of the taxes, penalties and costs. In accordance with the working of this law the records of the district court contain many titles relating to tax suits. Judgments secured in these suits became a lien on all property of the defendants liable to taxation.[37] This plan, with minor modifications in detail, continued in force until the adoption of the Political Code in 1872.

The Political Code of 1872 did away with the tax suits which have just been mentioned. It provided that after the publication of the delinquent tax list and notice of sale, which notice was required to be [illegible] office of the clerk and recorder, the sale should be held by [illegible]. After the sale the latter was to make out in duplicate a certificate of sale, one copy of which was to be delivered to the purchaser and the other retained in the office of the recorder, who was also required to make an entry in a book provided for the purpose. The property might be redeemed within twelve months. If so redeemed the recorder was required to note the fact on the certificate and in the record book. If the property was not redeemed within twelve months [illegible] to make to the purchaser a deed of the property, [illegible], and this deed conveyed all of the title which the owner had the power to convey under the laws of the United States or the State of California.[38] This system, with several amendments in detail, continued in force until 1895.

In 1895 amendments to the code were adopted under which the sale of land to private parties for non-payment of taxes was discontinued, and it was provided that at the time of the delinquent tax sale the whole amount of property assessed and then remaining on the delinquent list should be stricken off to the state as the purchaser, and the county [illegible] made on the assessment list, provided that on request [illegible] person in possession may pay the taxes, [illegible]

tax amounts to $300 or more on any piece of property the state may bring suit for collection. Property thus sold to the state might be redeemed within five years or at any time prior to entry or sale of said lands under the land laws of the state, and during this five years it continued to be assessed as before the sale in the name of its owner until a deed was made to the state. If the property was not redeemed within five years the tax collector was required to make a deed to the property to the state. This deed was to be recorded in the usual manner and then forwarded to the state controller, except in the case of state lands upon which the full purchase price of $1.25 had not been paid. In the latter case the deed was forwarded to the surveyor-general and the land was then open to entry and sale in the same manner as other state lands, except that the former owner was the preferred purchaser for six months.[29] Such lands for which deeds to state had been filed with the state controller[30] were then subject to sale at public auction upon application to the county tax collector and the authorization of the state controller, no bid to be accepted for a less amount than the aggregate amount of all taxes, penalties and costs then against the property, including costs of sale. Until so disposed of by the state it might still be redeemed by the former owner upon making the proper payments. If redeemed in this way after the deed has been made to the state the receipts of the treasurer, controller and auditor in connection with the transaction might be recorded in the recorder's office in the book of deeds, and then had the effect of a deed of reconveyance.[31] An amendment adopted in 1913 provided that on the day of the delinquent tax sale any property which had been sold to the state five years before and not since redeemed should be sold by the tax collector at public auction. No bid shall be accepted for a sum less than the amount of taxes, penalties and costs for the year for which the property was sold to the state for delinquent taxes. The purchaser then has thirty days in which to redeem all subsequent taxes, penalties and costs remaining a charge on delinquent taxes. If no sale is made, or the successful bidder does not make the redemption as described within thirty days, then the property is deeded to the state as previously provided.[32]

Liens for Public Improvements. The methods employed to compel payment of assessments made for public improvements are very similar to those used to collect the regular property taxes. Liens are filed against the property until the amounts assessed are paid. These are usually for street improvements, or through irrigation, lighting or [illegible]

[illegible]

Squirrel Claims. An uncommon record of the type just described is that relating to the destruction of ground squirrels. The records of the county officials frequently bring to light illustrations of how local conditions have affected legislation. An interesting instance of this kind is found in the records regarding squirrel claims or squirrel nuisances. Laws on this subject began to appear on the statute books early in the history of the state. They were all special enactments affecting certain specified counties, but sooner or later practically the whole of the agricultural portion of the state was covered by them. They were all designed to encourage the destruction of squirrels, gophers and other similar pests. A typical law is that of March 10, 1874, applying to Contra Costa and Alameda counties. Squirrels are declared to be a nuisance and it is made the duty of all persons owning land to keep it clear of squirrels. Squirrel districts are created and inspectors authorized, whose duty it is to destroy the squirrels wherever the land owners fail to do so. The cost of such destruction, with certain added penalties, are made a lien upon the property, and provision is made for suits to enforce the lien. The recorder is required to keep a special record under the provisions of the law.[1] Many similar laws were passed, but all were repealed about 1880, or superceded by the uniform county government act, which authorized the board of supervisors to destroy pests.[2] Special volumes for recording these claims are found in Alameda, Contra Costa, Santa Barbara, Santa Clara and Stanislaus counties.

Attachments, Liens, Lis Pendens. Since 1851 the recorder has been required to keep separate volumes in which to record all notices of attachment upon real estate, mechanics' liens or notices of actions, usually called lis pendens.[3] The latter is a notice of pendency of actions which, if affecting the title to real property, must be filed with the recorder of the county within which the property is located. It must contain the names of the parties, the object of the action and a description of the property affected. In nearly all of the counties the law requiring distinct record books has been followed; in a few they have been combined with other records, being, however, kept distinct by means of a separate index.

Certificates of Sale under Execution. By a law of 1850, the recorder was required to keep a volume entitled "Certificates of Sale" within which he was to record all certificates of sale of real estate sold under executions or under any order made by any judicial proceeding. In connection with this, he was required to keep an index

[1] [illegible]
[2] [illegible]

showing for each entry the name of the plaintiff, the defendant, the purchaser and the date of sale.[36] At the time of the adoption of the Political Code in 1872 this provision was incorporated in that part setting forth the duties of the recorder, and since then has appeared in the various county government acts and is included in the present Political Code.[37]

So far as the existing records are concerned, certificates of sale under execution are closely related to certificates of sale for taxes. In some counties the two are kept in a common series, in a few cases the common series covering only a portion of the record and distinct series being used for the balance. Where a distinct series of volumes is used, the titles upon the volumes are found to vary, only a few using the actual title, "Certificates of Sale Under Execution." Among the more common variations may be noticed "Certificates of Sheriff's Sales" and similar designations. In a number of counties the record was begun earlier than 1866. Certificates of sale under execution, as also those for taxes, are in their effect similar to deeds and it is therefore not surprising that in some cases these instruments have been recorded in the deed books. In other cases they have found their way into that catch-all, Miscellaneous Records.

Transcripts of Judgments. Among the records required to be kept by the recorder since the act of 1850 is the Transcript of Judgments, where the judgment conveyed or affected the title of real estate. It was also specified in the civil practice act of 1851 and continued in the Code of Civil Procedure that a transcript of the original judgment docket certified to by the clerk might be filed with the recorder of any other county. From the time of filing, the judgment becomes a lien upon the property of the judgment debtor within the county, the same as the docketing of the judgment by the clerk had affected the property of the judgment debtor in the first county.[38]

MISCELLANEOUS PROPERTY RECORDS

Maps. No specific law required the recording of maps before the act of March 9, 1893. As early as 1850, however, it was set forth as one of the duties of the recorder that he was to have the custody of, safely keep and preserve all maps, as well as other records deposited in his office. Since the title to a piece of property depends very largely upon the description of its location and since this in turn is often given in terms of a map or surveyor's notes, the importance of the map or record of survey in its relation to the record of the title to the property

[illegible]

[36] Pol. Code (1872), § 1237; Stats. 1883: 327; 1891: 326; 1893: 379; 1897: 186; Pol. Code (1915), § 1133.

[37] [illegible] Code Civ. Proc., § 674.

is apparent. It is but natural, therefore, that many maps were filed for record before the law specifically demanded that they be so filed.

By the act of March 9, 1893, it was provided that whenever any city, town or subdivision of land into lots, or any addition shall be laid out in lots for sale the proprietors shall have made an accurate map or plat thereof, this map to be certified and filed in the office of the recorder in the county in which the city, town, etc., is situated.[39] An amending act of March 14, 1901, provided that the recorder shall paste all such maps securely in a book of maps, when it shall be deemed to have been recorded.[40] By an act passed in 1907 it was made the duty of the recorder to examine all maps presented for recording, to see whether they conform to his records and the law, and to refuse to accept all maps which do not so conform.[41]

An act of March 16, 1907, to define the duties of and to license land surveyors, provides that within sixty days after the making of a survey by a licensed surveyor he must file with the recorder a record of the survey, made in "good draughtsman-like manner." This the recorder is required to paste in a stub book provided for that purpose; he is also required to keep an index to such records of surveys.[42]

From this it will be seen that there are at least two sets of maps [illegible] found in the offices of the recorders: one, frequently [illegible] record of maps; the other, a record of surveys by licensed surveyors. While this distinction has been followed in a large number of the counties there is no uniformity in regard to the map records. In addition to these maps there are usually miscellaneous maps of towns, county maps, road surveys, and the like, some of which are of considerable historical value.

Licensed Surveyors. By an act of March 31, 1891, to define the duties of and to license land surveyors, the state surveyor-general was required to transmit monthly to the recorder of each county a full and correct list of all persons licensed as land surveyors, and it was made the duty of the recorder to keep these lists in his office in such a way that they may easily be accessible. An act of March 16, 1907, continued in force the provisions of the previous act regarding the filing of licenses. These lists are kept on file, usually in filing boxes, though in a few cases they are pasted into a book. In a few counties an index register is kept. As the lists are all the same and simply duplicates of the surveyor-general's lists, the record in any particular county is of importance only for local reference.

Marks and Brands. The influence of the great number [illegible] engaged in the stock and cattle business and of the wide-extended [illegible]

[illegible] Laws 1907, 185.

unenclosed ranches is to be seen very clearly in the early legislation of the state, and in some of the public records. This is especially to be noticed in the laws regarding the identification of animals, and providing for the recovery of those lost or strayed.

By an act of the first legislature it was provided that the owner of horses, mules, cattle, sheep, goats or hogs was to have a mark, brand, and counter-brand different from that of his neighbors; the mark to be different from any other in the county and the brand in so far as possible to be different from any other within the state. The owner was to deliver to the recorder of the county a full description of the ear-mark, and present to him for examination his branding iron, a full description of which was to be recorded in the office of the recorder. The act was modified slightly during the session of 1851, requiring that the mark be cut upon a piece of leather and the brand and counter-brand be burned upon it. This was then to be kept in the office of the recorder and to be considered as evidence in any court of law.[44] No mark or brand was to be considered lawful unless recorded.

In order that there might not be confusion regarding the brands of adjacent counties it was further provided that after recording a mark and brand the recorder was to transmit to the recorders of the adjoining counties a transcript of each mark and brand recorded.[45]

As a usual rule it is safe to say that these provisions have been very well adhered to. Frequently the early entries are found to have been recorded in Spanish, and in some cases the brand books contain interesting specimens of the artistic work of the recorder or his deputies.

Estrays. Before 1897 there was no general law relating to estray domestic animals. There were many special acts, whose provisions it is not possible here to relate in detail, although there were some features which were fairly uniform. Beginning with the act of May 1, 1851, which applied to about two-thirds of the counties, the recorder was required to have an Estray Book, in which to keep a record regarding estrays found in the county. Provision was made for the recovery of these animals by their owners where the latter were known or where the brands and marks on the animal were on record in the book of marks and brands.[46] In 1897 and in 1901 general laws were passed which require that persons taking up estray domestic animals shall file a notice with description, etc., in the office of the recorder. Provision is made for the recovery of the animal or animals by their owners and for sale in case the owner is unknown. This law, with some modifications in detail, is now in force.[47]

[44] 113; 1861: 373; Pol. Code 1915, §§ 3167, 3172.
[45] § 3169.
[46] 335; 1907: 132; 1905: 1060, 1072; 1915: 636. In counties may be with the county poundkeeper.

The Civil Code provides that the finder of a thing other than a domestic animal must, in case the owner is known, inform him of the fact. If the owner is not known the finder must, within five days, file an affidavit with the justice of the peace, who will summon three disinterested persons to make an appraisement of the thing found. Two copies of their report of appraisal and valuation shall be made, one to go to the justice of the peace, the other to the finder, who must within five days have it recorded by the recorder in a book known as the Estray and Lost Property Book. Other sections of the law provide for the recovery or sale of the thing found.[5]

Though most of the counties have one or more volumes devoted to estrays, these records do not bulk very large in the aggregate. Only eight counties have more than one volume for this purpose, and in only one, Yolo, are there to be found both an Estray Book and an Estray and Lost Property Book.

VITAL STATISTICS

The records of vital statistics, notwithstanding their great importance, were during the earlier years very poorly kept. As early as 1851 the statutes required that the recorder keep a record of marriage certificates and contracts, but it was not until the act of April 26, 1858, that any attempt was made to keep a record of any other vital statistics. This act provided for the registration of marriages, births, divorces and deaths. For this purpose the office of state registrar was created, it being provided that:

> "He shall prepare and furnish to the county recorders of each county suitable blanks and books, prepared according to the following forms: *For Marriages*—Entries of the date, locality, names, residence, and age, of the respective parties, the place where the ceremony was performed, when the record was made, together with names, places of residence, and official station of the persons present and officiating at ceremony. *For Births*—Entries of the date and locality of birth, the name, sex, and color of the child, names, nativity, color, and residence of the parents, and the name of the informant. *For Divorces*—Entries of the date of the divorce, the Christian and surnames, and residence of the parties obtaining the same, the cause of the divorce, the date of the marriage, and the name by which the applicant or the parties upon whom the divorce was granted, and the date of the decree upon which the divorce was granted. *For Deaths*—Entries of locality and date, sex, age, color, single or married, occupation, nativity, disease, or cause of death, place of interment, and [illegible] under whose direction."

The recorder is required to keep a record of marriages, births, deaths, divorces, etc., received from the state registrar, and for each record so entered he is entitled to be paid [illegible]

registrar. In order that the records might be turned in to the recorders it was made the duty of every person performing a marriage ceremony to report it to the recorder. In similar manner physicians, parents, and keepers of institutions were required to report births; persons obtaining a divorce were to report the fact; and the sexton or other person having charge of burials was to furnish the information for the death records. It was further provided that persons entering the record of each of these matters should pay to the recorder a fee of fifty cents; while failure to report the fact laid the guilty person liable to a fine of not less than ten nor more than one hundred dollars. Unfortunately, notwithstanding the explicit provisions of the act and the penalties imposed upon persons neglecting to report, the law seems not to have been taken as seriously as its importance demanded. In most cases the records show the statistics for the years 1858, 1859 and probably 1860, but after that date few entries appear.

At the time of the adoption of the Political Code in 1872 the secretary of the state board of health recommended a simpler law on the subject of vital statistics. All persons performing marriage ceremonies, assisting at births, or in attendance upon deceased persons, funerals or inquests, were required to keep a register showing certain specified facts regarding the case. The marriage certificates were to be recorded within thirty days after the marriage, and in the case of births or deaths the entries were to be reported to the recorder at the end of each quarter. In the case of births and deaths a fee of twenty-five cents a name was imposed, the money to be paid primarily by the parents or the person next of kin. If no fee was paid the fact was to be reported anyway and the money paid by the supervisors of the county. Neglect to report these statistics made the party subject to a fine of fifty dollars. The recorder was to record the facts regarding births and deaths in separate registers known as "Register of Births" and "Register of Deaths." As the result of this legislation many of the local boards once again were aroused to action; in some cases this resulted in complete records, but in the majority of counties they were again neglected for a few years.

Amendments to the Political Code passed in 1905 called for more careful attention to the matter of vital statistics and as the result the records from that date seem to be practically complete. By this act, approved March 18, 1905, all persons performing marriage ceremonies were required to file with the recorder within three days after the [illegible] date of registry of the marriage in which was to be [illegible], the date of the marriage; the sex, age, race, [illegible] residence of each of the parties; the number of [illegible] occupation of the parties; the maiden name of the

woman if previously married; the names and birthplace of the parents of each and the maiden name of the mother of each. This data should be incorporated by the recorder in his Register of Marriages, the original certificate being then sent to the state registrar.

In a similar manner physicians or others in attendance at the birth of a child were required within five days to return to the recorder, or if in incorporated cities to the health officer as registrar, a certificate of birth showing the time and place of birth; the name, sex, race and color of the child; the occupation and residence of the parents, with the maiden name of the mother; and whether or not the child was born in wedlock. This was to be entered in the Register of Births, after which the original certificate was to be sent to the state registrar.[3]

By the amendments to the codes passed in 1907, it was provided that the recorder should make a complete and accurate copy of each certificate registered by him upon a form identical with the original certificate, to be filed and permanently preserved in his office as the local record of such marriage or birth.[4]

More definite rules for the registration of deaths were adopted in a statute approved March 18, 1905.[5] This act gave to the State Bureau of Vital Statistics the general supervision of the records of death. In this they were to be assisted by local registrars, the city clerk or recorder in incorporated cities and towns, and the county recorder in the district lying outside of incorporated municipalities. No burial permit was to be issued until after the return of a satisfactory certificate of death. This certificate must be of standard form recommended by the United States census office and the American Public Health Association and must contain information as to the exact time and place of death; the name, sex, race and color of the deceased; whether married, single or widowed; date and place of birth; name and birthplace of the father; maiden name and birthplace of the mother; and the occupation of the deceased. Other items regarding the cause of death, place of burial, etc., are to be supplied by the physician and undertaker. The local registrar is required to make a complete and accurate copy of each certificate upon a form identical with the original certificate, this copy to be filed in his office as the local record of such death. The original certificate is then sent on to the state office. In 1907 further amendments were made in regard to the registration of deaths, but none of these affected the method or form of the records as above described.

Although during the earlier years the records regarding marriages, births and deaths were very poorly kept, the survey of the county archives shows that since 1905 these various records have been [illegible]

[3] Stats. 1905, p. 164, 165.
[4] Stats. 1907, p. 114; Pol. Code (1915), § 3078.
[5] Stats. 1905, p. 322.
[6] Stats. 1907, p. 256; Pol. Code (1915), § 2984.

excellent shape in nearly all of the counties of the state and for the student of sociological questions should furnish invaluable information.

Burial Permits. In 1889 a provision was inserted in the Political Code, requiring that burial permits be filed with the recorder.[7] This was repealed in 1905,[8] but in 1913 a section relating to burial permits was again added to the code, and among its provisions is one requiring superintendents of cemeteries, boards of health and health officers to report weekly to the recorder the names of all persons interred during the preceding week.[9] In one county (Stanislaus) the recorder, taking cognizance of the new provision in 1889, added to the archives of his office a volume for recording burial permits, and this record has been kept up to date. In no other county has a separate record been kept of these permits.

MISCELLANEOUS RECORDS

In addition to those already described there are a number of sets of records in the office of the recorder that are not readily capable of classification. They have therefore been reserved for consideration under the general title of miscellaneous records. As used in this sense, the descriptive title must not be confused with the particular set of records usually known as Miscellaneous Records, although both titles arise from similar conditions. The Miscellaneous Records, sometimes called Miscellany or Promiscuous Records, contain those documents which by their peculiar nature do not naturally belong elsewhere. They therefore, especially in the volumes for the earlier years, contain a great deal of interesting and valuable information from the historical point of view.

Agreements. Although not specified as one of the records required to be kept in a separate book, about one-half of the counties have a book for the recording of agreements. In the majority of these counties the title of these records is Agreements, but many use Covenants or Contracts or a combination of titles. In those counties which do not have a separate record of this title, instruments of this character are recorded in a volume known as Miscellaneous Records. The index to the record will show at least the names of the contracting parties and the volume and page where the document may be found. It may also give the date and general nature of the document.

Architects. By an act "to regulate the practice of architecture," approved March 23, 1901, it is provided that an architect, before entering upon the practice of his profession in this state, must receive a

[7] Stats. 1889, p. 168; Pol. Code (1915), § 3084.

license from the State Board of Architecture. It is further provided that the license must be recorded in the office of the recorder in each county in which the holder shall practice. A failure to have the license recorded is sufficient cause for revocation of the license.[1] The license may be revoked for cause, and when so revoked by the State Board of Architecture, notice of such revocation is to be sent to the recorder of each county in the state, who shall thereupon mark the certificate "canceled."[2] The provisions of this act, with minor amendments, are now in force.[3] In several of the counties this record is kept in a bound volume; in others, the certificates are merely filed, either with or without an index.

Banking Records. Banking Assets; Banking Capital. By an act approved April 1, 1876, all corporations or persons doing a banking business were required to publish in January and July of each year and also file with the recorder a sworn statement of the amount of capital actually paid into such business. In like manner all banking houses were required to publish and have recorded a sworn statement showing the actual condition of the assets and liabilities. The recorder was to keep two sets of well-bound books for the recording of these statements, to be labeled respectively, "Statements of Banking Assets" and "Statements of Banking Capital." This act was repealed by an act dated March 26, 1895.[4] Since these volumes are no longer required to be kept as current records they have been, in many counties, relegated to storerooms.

Election Expenses. By the provisions of the act to promote the purity of elections, approved February 23, 1893, candidates and campaign committees were required to file itemized statements of their receipts and expenditures, with proper affidavits. In the case of candidates for offices filled by the electors of the state or of political divisions greater than the county, members of the senate and assembly, representatives in Congress and members of state commissions, these statements were to be filed with the secretary of state. In all other cases they were to be filed in the office of the clerk and were also to be recorded in the office of the recorder and to become a public record. These provisions were retained in the act of March 19, 1907, and are still in force.[5]

As a result of this law there are in most of the counties volumes devoted to the recording of candidates' and committees' statements of election expenses. A large number of such statements are also found recorded in Miscellaneous Records.

[1] Stats. 1901, 642, 4.
[2] Stats. 1901, 644.
[3] Deering's Gen. Laws of 1906, Act 8224.
[4] Stats. 1893, 79; Stats. 1895, 77.
[5] Stats. 1907, 674. Deering's Gen. Laws of 1906, [illegible]

Fee Books. The first general law regarding fee books was that of April 1, 1864, but before that date there had been passed laws requiring the keeping of fee books in certain counties.[6] The law of 1864 required that every officer authorized by law to receive fees for official services should keep a fee book, in which to enter all fees or other compensation received or to be received by him or his deputies giving the date, name of person paying or to pay, and the nature of the service rendered. During January and July of each year this book was to be filed with the clerk of the supervisors with the sworn statement of the officer that it was correct.[7]

The uniform county government act of March 14, 1883, contained a provision that each officer authorized to receive fees under that act must keep a fee book, open to the public, in which must be entered, at once and in detail, all fees or compensation received by him. On the first Monday of each month he must add up each column to the first day of the month and set down the totals. On the expiration of his term of office he must deliver all fee books kept by him to the auditor.[8] The uniform county government acts of March 31, 1891, and March 24, 1893, incorporated the provisions of both these laws, but the county government act of April 1, 1897, included only the provisions of the law of 1883, and this requirement has been incorporated in the Political Code as it now stands.[9]

The fee book is not a record in the ordinary sense, its function being to check the financial operations of the office. It is therefore only temporarily useful and is consequently one of the first to be relegated to the storeroom. These books not infrequently find a more or less permanent abiding place in the auditor's office, and in a few counties, where offices are combined, the fee book of the combined office may be found in the room devoted to the business of the clerk or auditor. An examination will show gaps in the series of fee books in a number of counties, indicating that many of the volumes have been lost [illegible].

Newspaper Files. It will be seen by examination of this report, that there are in the various courthouses of the state a large number of volumes of newspaper files. These have in large part come into the county archives by virtue of several laws passed by the legislature [illegible] the earlier years of the state's history. The most important was the act of April 8, 1862, by which it was made the duty of the recorder of each county to subscribe for from one to three newspapers published within the county, the particular paper or papers to be

[illegible]
§ 12

designated by the board of supervisors. These papers were to be received and preserved by the recorder, who was to have them bound in volumes and kept in his office "for the use of the Courts, when needed, of strangers, and the inhabitants of the county," all of whom were to have access to them during office hours free of charge.[10] No special act has been found whereby this law was repealed, but in the Index to the Laws of California (1907), prepared under the supervision of the Commission for the Revision and Reform of the Law, it is classed as one of the acts repealed by the codes.[11]

Three other laws, whose purpose seems to have been mainly political, have required the deposit of newspapers in the county clerk's office: 1. An act "to provide for the better publication of official and legal notices," approved May 3, 1853, designated by name seventeen newspapers throughout the state in one or other of which all legal notices were to be published, [illegible] of the papers serving for one county or a [illegible] of counties. These newspapers were required to furnish two copies of each issue to the secretary of state and to the clerk of each county and these officials were "required to keep and preserve the same, open to public inspection."[12] The law was repealed the next year.[13] It is very doubtful whether its provisions were strictly adhered to while it was in force, and certain files which were until recently in the office of the clerk of Santa Clara County were probably deposited there as a result of this law, and it is possible that other instances might be found. 2. An "Act to protect litigants," enacted in 1870, made it [illegible] Judge [illegible] to designate [illegible] each county [illegible] publication, [illegible] and [illegible] [illegible] County. Only [illegible] and he was required to have one file bound.[14] This law was repealed at the next session of the legislature.[15] 3. In 1870 another law was passed which authorized the governor, secretary of state and attorney general, or any two of them, to select a newspaper published at Sacramento to be the official state paper, in which all state official advertising was to be printed, and which was to "furnish two copies of the said newspaper, free of charge, to each and every County Clerk in the State, to be regularly filed, and kept in his office for reference."[16] This law also was repealed [illegible] session of the legislature,[17] but its presence on the statute books for two years is the explanation of the files

From the historical point of view the effect of these early laws has been most fortunate, for in some cases the files to be found in county offices are the only ones now in existence. Many of these files are still carefully retained in the main offices, but in some other instances, though still kept as a part of the archives, they are very poorly cared for, being crowded into storerooms or basements. In some cases it is known that files once in the courthouse have been removed by private parties. There is no uniformity regarding the particular office within which these papers are now located, for though the bulk of them are in the recorder's office, a considerable number are with the clerk and in a few cases some have been found with the auditor.

Newspapers continued to be deposited in various county offices throughout the state long after all these early laws had gone out of operation, and in some counties files of local newspapers are still being received. In part these are no doubt files of the county "official paper," as the paper is commonly called in which the delinquent tax list is published; and part of them are sent in because of the publisher's desire to have a file of his paper preserved in a safer place than his own office.

By an act approved March 19, 1909, the county board of supervisors may authorize the recorder to deposit with any free public library maintained at the county seat such newspaper files or portions thereof as may be in his custody. Before making the deposit, however, the board must obtain from the trustees of the library an agreement that they will properly preserve these files and make them accessible to the public.[7]

Official Bonds. The act of February 28, 1850, concerning official bonds of officers, provided that the official bond of the district attorney should be approved by the judge of the district court and filed and recorded in the office of the clerk in some county of the district designated by the judge. The official bonds of the sheriff, coroner, justice of the peace and all other county officers were to be approved by the county judge and filed and recorded in the office of the recorder. The act establishing the recorder's office, approved April 4, 1850, required that official to record in a separate book all commissions and official bonds required by law to be recorded in his office.[8] The Political Code in 1872 provided that unless otherwise prescribed by statute, the official bonds of county and township officers must be approved by the county judge, recorded in the office of the recorder and filed in the office of the clerk. The official bonds must be recorded in a book kept for that purpose entitled "Record of Official Bonds." An amendment in 1873

[7] Stats. 1909: 126; Deering, Gen. Laws (1915), 462.
[8] Stats. 1850: 71, 151.

provided that the clerk's bond, after recording, should be filed in the office of the treasurer. A further amendment in 1880 substituted the superior judge for the county judge as the official by whom the bonds should be approved. These provisions, thus amended, are embodied in the present Political Code.[2]

Slavery Papers and Indian Indentures. Although slavery was forbidden by the state constitution [illegible] be found in the county archives give abundant proof that this institution did exist for many years after California became a state. These are usually single documents in the form of emancipation or manumission papers which are recorded in deed books or in the volumes devoted to miscellaneous records. Examples of this may be found in the archives of El Dorado, Los Angeles, Mariposa, Placer, Santa Clara, Santa Cruz, and elsewhere.

In the archives of Humboldt County was found an interesting bundle of documents entitled "Indian Indentures." It is probable the miscellaneous records of other counties having a large Indian population may also contain similar documents. An act passed April 22, 1850, provided that any person having obtained a minor Indian through the consent of the parents or relatives of the child might go before a justice of the peace and after having shown that no compulsion had been employed [illegible] and after having explained to them the terms, especially [illegible] earnings" of the child until he was eighteen years of age if a male, fifteen if a female. On the other hand, the applicant agreed to feed and clothe the child and to treat him in a humane manner.[3]

In 1860 the act was amended, and it now being taken before a district or county judge who was to issue duplicate copies of the articles of indenture, one copy to be filed in the office of the recorder. This act extended the provisions of the former law to include not only children but adults as well, if they were held as prisoners of war, or vagrant Indians who had "no settled habitation or means of livelihood, or have not placed themselves under the protection of any white person." In 1863 the acts permitting this practice were repealed.[4]

Sole Traders. On April 12, 1852, an act was approved authorizing married women to transact business in their own names as sole traders. Under this act the woman was to make a declaration before a [illegible] setting forth the name of her husband and [illegible] be publicly responsible for all debts incurred. This declaration was then to be published in some public newspaper of the county [illegible]

filed with the recorder.[23] The following is one of the first entries in the Record of Sole Traders of Humboldt County:

"Magdalena Stanislowsky Sole Trader

To all whom it may concern, Magdalena Stanislowsky wife of Gustave Stanislowsky resident within the County of Humboldt and State of California hereby declares and makes known that it is her intention, and that she intends to carry on, in her own name and on her own account within said county and State the business of Brewing, and the business of washing and Ironing and that she will be individually responsible in her own name for all debts contracted by her on account of her said business, and that the amount of capital invested or to be invested in said business does not exceed five thousand dollars.

MAGDALENA STANISLOWSKY

Attest
BYRON DEMING
JOHN L. WAGNER

June 28, A D 1859."

An amendment to this act was adopted April 8, 1862, by which it was required that the applicant present the petition at a session of the district court and the creditors of the husband were then to be permitted to interpose objections to the proposed action. The order of the court, entitling the applicant to the privileges of the act, together with the oath of the petitioner, were then to be recorded in a book kept by the recorder for that purpose. The court action was subsequently transferred to the superior court but otherwise the provisions of this act are now incorporated in the Code of Civil Procedure.[24]

Special Partnerships. The formation of special partnerships was authorized by an act approved March 4, 1870. This act permitted a special partnership for the transaction of any business except banking or insurance. Such a partnership was to consist of one or more persons called general partners and one or more persons called special partners. A special partner enjoyed certain specified rights and exemptions, the most important being that he was not liable for the debts of the partnership beyond the amount of capital contributed to the firm.

Each member in the special partnership was required to sign a certificate setting forth the name under which the partnership was to be conducted; the general nature of the business to be transacted; the names of all the partners, with their residences, indicating which were general and which special partners; the amount of capital contributed by each special partner to the common stock; and the period for which the partnership was formed. This certificate was then to be acknowledged by each of the partners and recorded in a book to be kept for that purpose by the recorder of the county in which the principal business

[23] Stats. 1852: 101-102.
[24] Stats. 1862: 108-109; Code Civ. Proc. 1915, §§ 1811-1821.

of the partnership was to be transacted. It was also to be published in a newspaper of the county, or as near thereto as possible, once a week for four successive weeks. If the business of the partnership was to be conducted in more than one county, certificates should be filed for record in each county.[25]

With the adoption of the Civil Code in 1872 the act of 1870 was incorporated almost as it stood into that code. One new feature, however, is to be noted, for in the code it was now provided that the certificate of special partnership should not only be recorded by the recorder but that it should also be filed with the clerk. In their general form the provisions of the act as first adopted are still to be found in the Civil Code of the state.[26]

Stallion Register. By an act of May 1, 1911, a stallion registration board was created with authority to issue licenses, and it was provided that all licenses issued for stallions and jacks must be recorded by the recorder in the county in which the stallion or jack is used. An amendment adopted in 1915 did away with the requirement for the recording of licenses by the recorder.[27]

---

[25]Stats. 1869-70: 123-125.
[26]Civ. Code, §§ 2177-2185.
[27]Stats. 1911: 1306; 1915: 1495.

THE SCHOOL AND FISCAL OFFICIALS

SUPERINTENDENT OF SCHOOLS

The office of county superintendent of schools was first mentioned in an act approved May 3, 1852, entitled "An act to establish a system of common schools." This act, although it defined the duties of the superintendent, failed to state how he was to be elected or appointed.[1] An amendatory act[2] passed the next year provided that

> "The County Assessor of each and every county in the State shall be, and he is hereby, constituted the Superintendent of Common Schools within and for his county."

Although it may appear strange that the assessor should have been entrusted with the headship of the county school department, it must be remembered that in this early period the duties of superintendent of schools were few compared with his activities at present and did not require the full time of an official; furthermore, a very large share of his duties related to the administration of the school lands which included the sixteenth and thirty-sixth sections in each township. Under these circumstances the assessor, whose regular duties took him over the whole county, was the natural one in whose hands to place this work.

The office of superintendent of schools was made a separate and distinct office in 1855. The act provided that a superintendent of common schools should be elected in the county at each general election. The term of office at that time was fixed at two years.[3] According to the act it was to be his duty:

> "First, To visit each school in the county under his control, personally, at least once a year, and to exercise a general supervision over the interests of Common Schools in his county, and give to the School Trustees, Marshals and Teachers such aid and counsel as may be important to the prosperity of the schools.
>
> Second, To aid the various School Trustees in the examination of teachers for public schools, and to see that the examination in all cases is sufficiently rigid and thorough.
>
> Third, To distribute promptly such blank reports, forms, laws and instructions, as shall be deposited in his office for the use of the School Trustees, Teachers and Marshals, and any other officers entitled to receive the same.
>
> Fourth, To draw his warrants on the County Treasurer in favor of, and deliver the same to, the persons entitled to receive the same; . . .

Fifth. To keep on file in his office the report of the School Trustees, Marshals and Teachers, received by him, and to record all his official acts as such County Superintendent, in a book to be provided for that purpose; and at the close of his official term, to deliver to his successor such records and all documents, books and papers belonging to his office, and to take his receipts for the same, which shall be filed in the office of the County Treasurer.

Sixth. To make full report, in writing, annually, on or before the twentieth day [of] November, for the school year ending on the last day of October next previous thereto, to the Superintendent of Public Instruction; such report to include an abstract of all the various annual reports of the City Boards of Education, School Teachers, Marshals and Teachers, by laws required to be made to the County Superintendent for the preceding school year."

In addition to this he was to apportion the school funds among the various districts in proportion to the number of white children residing therein.

This list of duties varied from time to time. The Political Code as it now stands defines the general duties of the school superintendent to be as follows:

1. To superintend the schools of the county.
2. To apportion the school moneys to each school district each quarter.
3. To draw requisitions on county funds for expenses of school districts.
4. To keep open for public inspection a register of requisitions showing the use of each school fund.
5. To visit each school in the county at least once annually.
6. To preside over teachers' institutes in the county.
7. To issue temporary certificates to persons qualified to receive them.
8. To distribute all laws, reports, circulars, etc., to school officers.
9. To keep on file the reports of the superintendent of public instruction.
10. To keep a record of his official acts and of the proceedings of the county board of education.
11. To pass upon and approve of all plans for building schoolhouses, etc., in towns not having city boards of education.
12. To appoint trustees to fill vacancies.
13. To make such reports upon the condition of schools as may be demanded by the superintendent of public instruction.
14. To preserve carefully all reports of school officers and teachers.
15. To grade each school in the county once each year.
16. To recommend and advise the local boards of education in reference to receiving federal aid in teaching Indian children.[1]

Annual Report. One of the important records of the office is the annual report to the superintendent of public instruction. This is used

by the state superintendent in the compilation of his annual report. While a large part of the information may therefore be found in printed form in these reports, there is nevertheless much additional valuable information of a local nature to be had from these county superintendents' reports. The reports are compiled in printed form books prepared under the direction of the state superintendent and vary in the nature of their contents according to the ideas of that official. In general they give detailed information regarding the school districts, length of term, number of pupils, attendance, school property, etc.

In six counties—Contra Costa, Fresno, Marin, San Diego, Sonoma and Yolo—these reports begin as early as 1865; in Mendocino, Sacramento and Santa Clara they date from 1866. In nearly all the offices, with the exception of the early years which are frequently lacking, these reports are complete. Usually several years are bound together in board covers, although in some counties they are filed in their original paper covers.

Records of the Board of Education. Since 1880 the superintendent of the schools of the county has been by virtue of his office the secretary of the county board of education.[5] He, therefore, has charge of the records of that board. The most important of these are the minutes of board meetings and the records of examinations of candidates for teachers' certificates or diplomas of graduation from the schools of the county. The minutes of the board are usually known under that title, but they are also referred to as Records or Proceedings. In several counties the first dates of these records precede the year 1880; most of them, however, begin at that date. From the date of beginning they are in nearly all cases complete.

Certification Records. The granting of teachers' certificates is one of the most important functions of the county board of education. These are issued either after examination or upon the presentation of the required credentials from properly qualified educational institutions. The record of this action may be found either in a Record of Certificates, in which entries giving the name, grade of certificate, date issued, and period covered are shown, or in the certificate form-books. The latter are stub-books containing the printed certificates. These form-books vary according to the grade of certificates issued. Since the certificates are usually left on file in the superintendent's office they are to be found unremoved from the stub. In case of removal however, the certificate is taken out and given to the teacher. The stubs may be of much value in ascertaining the record of

a teacher's activity or other information regarding the individuals concerned.

School Census Records. Until 1911 the apportionment of school funds was made according to the relative number of children of school age in each school district.[9] To determine this number it was necessary to take a census once a year of all children residing within the district who were of school age. The records are the field notes of the census marshal, and the census report. The former give the name, age, and other information regarding each child in the district and is arranged in the order in which the information was acquired, it is therefore usually by families; the latter is an abstract based upon the field notes including the names of parents and children. The great value of these records is readily apparent to anyone who has need of information regarding population or in reference to the personal or family history in the community. Unfortunately, the records have usually been considered of only temporary value. In no case were they found to be complete. Since 1911 the apportionment of school funds has been made dependent upon actual school attendance rather than school population, with the result that the school census has been discontinued.

Reports of Teachers, Trustees. Since 1852 the superintendent has been required to keep the reports of teachers and trustees and to compile from them the information for his annual report to the state superintendent. Unfortunately, as a rule these school district reports have not been kept. In some cases, however, they are still to be found [illegible] ning and development of the school system in the places concerned.

Examination Records. Since one of the chief duties of the county board of [illegible] has been to examine the candidates for teachers' certificates, the records relating to this work are [illegible] These examination records are [illegible] the qualifications of the candidates [illegible] certificates issued [illegible] These records are found in [illegible] counties.

Journal or Record of Official Acts. Since 1852 the superintendent has been required to keep a record of his official acts. This is presumably a record book in which is to be inscribed a report of all the acts of the superintendent in the discharge of his official duties. This is to be found in about one third of the counties. Its value and features vary according to the [illegible] of the person holding the office of superintendent. In most cases it follows the form of a [illegible]

journal and hence is called a journal. Although many of these books are merely perfunctory statements of official business some of them are of great interest owing to the fact that they are written in a form which gives an insight into the activities of the superintendent.

Financial Records. Records relating to financial matters are to be recognized by their titles as Register of Requisitions, Register of Warrants, School District Ledger, Superintendent's Fee Book and Teachers' Retirement Fund Record. At the time of the adoption of the code in 1872 the superintendent was required to keep a Register of Warrants showing the fund upon which the warrant was drawn, its number, to whom issued and for what service, together with a receipt from the person receiving it.[7] In 1880 this was replaced by the Register of Requisitions which is essentially the same record.[8] In some counties both records are kept. The nature of the School District Ledger is evident from its title, for it gives under one heading the financial condition of each separate district or fund. The value of these records is not confined merely to financial matters, as may be seen from the use made of them of recent years to establish the facts in reference to the term of service of public school teachers, such a record being most necessary in connection with claims for the teacher's retirement fund. By an act passed in 1913 teachers are granted a pension upon retirement after a specified term of service. The fund for this purpose is raised by levying upon the monthly salary of the public school teachers. A record of this fund is kept by the superintendent.

THE FISCAL OFFICIALS

The fiscal officials –auditor, treasurer, assessor and tax collector– have under their control a great mass of records relating to the financial end of the county government. Not only will the person studying problems of finance find these records useful, but furthermore the seeker for general historical information is often forced to refer to records of this character in order to verify a fact, or transaction, even though it be only incidentally related to financial matters. For this reason, notwithstanding the fact that they are only incidentally record-keeping officers, they have been included in this guide to county archives, in the belief that the addition of these officers will be found useful to many persons who desire to use the archives.

THE AUDITOR

In all financial matters the archives of the auditor are most important. For although the treasurer is custodian of the money and the

7- 1919

assessor and tax collector are closely connected with the raising of the county's revenue. It is the auditor who is responsible for all money received or paid out in the name of the county. He does not himself handle the county's funds, but is entrusted with the responsibility of seeing that these funds are used in a legal manner. He has, therefore, records dealing with all phases of the financial affairs of the county. In many cases these records duplicate similar ones kept by the treasurer, tax collector or assessor and not infrequently records once used by these officers are deposited with the auditor after they have ceased to be of immediate use to their particular office. For these reasons it has not always been possible to distinguish records which have originated in the auditor's office from those of other officers. On account of the similarity of the records these errors, however, are unimportant.

Assessment Rolls. The assessment rolls usually occupy the greater part of the office of the auditor since the law requires that after these books have been made up by the assessor and the taxes gathered by the collector the books shall be given into the charge of the auditor. In general these are divided into original, duplicate, delinquent and personal property assessment rolls. These are records covering the whole county. In addition to these are to be found special books for school, sanitary, irrigation, or lighting districts, and towns. Accompanying the assessment rolls there are usually one or more volumes of indexes to the names of property owners.

The original assessment rolls are of value in showing the distribution of property and the development of property values. In about two-thirds of the counties these records have been found for the first years of the organization of the county. In the early years the records show that the assessor took particular pains to set down in detail the exact nature of the property as well as its total assessed value. When this was done the assessor's rolls partake of the nature of an annual census of agricultural and industrial products. The published reports of the state surveyor-general before 1880 give much of this data in statistical tables, but the assessment rolls are valuable for distributing the amounts and items among the various individual taxpayers, and for this reason are very useful to one who desires to make a detailed study of any county or community. Unfortunately, during recent years it has become the tendency for assessors to describe the property only in general terms, giving the total valuation of real estate, improvements and personal property. In this way much less definite information can be obtained from the assessment rolls.

Bonds. [illegible] for [illegible] by the county, for improvements upon streets, highways, etc., is raised by means of the sale of bonds, a record of these is kept by the auditor. This record

is frequently in the form of a register, which gives the character and denomination of the bond, name of purchaser, date of maturity, and date of sale. In addition to the register it is, usually, the custom to paste in scrapbooks all interest coupons as well as the canceled bond itself as soon as they have been paid by the county.

Care of Dependents. The county assists in the care and support of those persons who through unfortunate circumstances are unable to provide for themselves. In the administration of the funds dealing with this matter several record books are to be found in the county archives; among these are books relating to the county hospital, aged indigents, and the support of orphans and half-orphans. The former relates to the county hospital as an institution whereas the latter deal with individual cases which are wholly or partially supported by the county and state outside of its institutions. They frequently contain much information regarding the dependent persons and their families.

License Record. Licenses, unless determined by statute, are fixed by the board of supervisors and collected, in general, by the county tax collector. The auditor, however, keeps a record of all licenses issued and of all funds received from the sale of licenses. In some of the counties the license records are practically complete from early dates and may be found useful in tracing the development of those lines of business for which a license has been required.

Tax Sales and Redemptions. The subject of tax sales and redemptions of land sold for taxes is too great to be handled here. In the discussion in relation to the archives of the recorder the subject was quite fully considered.[1] The more common titles found in the auditor's office are: Record or certificates of tax sales, delinquent tax record, and redemption of land sold for taxes.

School Funds. Records dealing with the school funds are found in the offices of the superintendent of schools, the treasurer, and the auditor. On account of the fact that all three of these officials are in some way concerned in the transaction affecting school funds it is difficult at times to distinguish the books kept by the separate officers. Since one set of records is a check upon the others they must of necessity be very similar. The fact is that in many cases they are practically identical. These records relate to school bonds, school district funds, teachers' annuity fund, apportionment of school money, warrants, superintendent's fee books, and others of a similar nature.

Warrant Books. Records dealing with warrants are of several kinds. One is register of warrants; another is record of registered warrants. The former is merely a record of claims paid by the superintendent,

showing the name of the claimant, the amount of the warrant, the nature of the service by which it was incurred and the date of payment, with the signature of the claimant as a receipt for the amount. The record of registered warrants relates to those warrants which have been presented for payment when no funds were available for meeting the amount of the claim. In this case the warrants are registered and paid, in the order of registration, as soon as money is available in the fund against which they were issued. In actual practice the term Register of Warrants and Registered Warrants are often used indiscriminately.

THE TREASURER

In addition to those records which have been considered in the treatment of the auditor's office there are others belonging more distinctly in the office of the treasurer. For the purpose of keeping a record of the transactions of his office as well as a check upon the different funds belonging to the county, the treasurer has a number of general record books including a cash book, day book or journal, and a ledger. Although records of this character have been kept by each of the counties from the date of organization an examination of the archives reveals the fact that not all of the books have been preserved. Many of the early volumes have long since become destroyed or lost. On the other hand, due to the careless use of the loose leaf system, many of these records for recent years are in danger of being destroyed at any time. The rule should be rigidly enforced that as soon as a volume of a loose-leaf record has become completed it should immediately be bound in a permanent manner and properly labeled.

Inheritance Tax Records. In 1893 the legislature passed an act establishing a tax on collateral inheritances, bequests, and devises. The amount of the tax was determined by the market value of the estate or fixed by appraisers appointed by the court for that purpose. The tax was collected by the county treasurer and the money thus acquired paid over to the controller twice a year. The probate department of the superior court contains records relating to the property of deceased persons and with them records relating to the inheritance tax. From this court the treasurer is also furnished with a record of appraisements in order to assist him in collecting the proper amount [illegible] taxes [illegible] by the treasurer.

School Funds. The treasurer's records in reference to public schools are of a twofold character. Those relating to the administration

of school funds; and those relating to the sale of state school lands. Under the former heading are to be found [illegible] district accounts, cash books, and ledgers; records relating to the bonding of school districts; and those concerning the teachers' annuity and retirement fund.

State Land Sales. By action of Congress the states were given control over a large part of the public domain. This included the sixteenth and thirty-sixth sections in each township, in addition to another 500,000-acre grant, which were set aside as school lands. There were also all swamp and overflowed, tide and salt-marsh lands within the state. Since payments upon lands sold by the state were made through the county treasurer the archives of that officer usually contain separate records dealing with the sales of public lands within the county. As most of this land was school land the record most frequently found is in reference to the sale of school lands. In addition to these, swamp land books are frequently found. These books are often valuable records for anyone making a study of the land question or the early settlement of the region.

THE ASSESSOR

The chief function of the office of the assessor has always been to determine the value of property subject to taxation within the county, to the end that the taxes of the county may be equitably distributed among the property holders. In addition to this task he was, during the earlier years, given other duties which now fall exclusively to other officers. As seen in the section regarding the duties of the clerk, the assessor was required to assist in the registration of voters.[11] This was doubtless due to the fact that his work throughout the county brought him in contact with a very large portion of the population. This was an important consideration in the days when roads were few and poor.

A more peculiar function was attached to the assessor's office during the years from 1853 to 1855 when he was made ex officio county superintendent of schools.[12] There is [illegible] the connection between appraising the value of taxable property and supervising the education of children that this combination of offices seems strange. Yet it must be remembered that during these years the educational system of the state was in a very embryonic stage, there were few [illegible] to supervise, while on the other hand great amounts of school [illegible] to examine were yet unsold. No one was in a better [illegible] to know the location and status of the ownership of the school lands than the county assessor.

The duties of the assessor are such that few records [illegible] in the archives. His chief work is to levy assessments on property within the

[illegible]

county, the results being incorporated in the assessment rolls which, after being used by the tax collector, are finally deposited in the archives of the auditor. In order to assist him in making proper assessments the assessor frequently has a number of records which are themselves of value to the research worker.

Assessment Statements. Statements or affidavits made by property owners in regard to the ownership and valuation of their property form a large part of the records of the assessor's office in many of the counties. In five counties—Calaveras, Humboldt, Mendocino, San Joaquin and Yuba—these records date back to the fifties and sixties. In the other counties they are relatively recent, the earlier lists having been destroyed. The information contained in these statements is similar to that of the assessment rolls. The field notes of the assessor and deputies serve as a check against these statements.

Land Office Returns. One of the methods by which the assessor keeps informed in reference to the changes in ownership of lands is by securing reports of patents issued by the federal and state land offices. A record of this character is to be found in about one-third of the counties. It varies in form between large loose-leaf sheets containing the list of land entries, bound volumes for record under townships and sections, and a card index system. When access can now be had to the land office records themselves these records are useful in matters pertaining to the settlement and ownership of land.

Poll Tax Records. Before the abolition of the poll tax in 1914, the assessor was charged with the duty of collecting this tax. This was a tax levied by the state upon each able-bodied man between the ages of twenty-one and sixty for the benefit of the state school fund. In connection with this was the county road tax levied by the board of supervisors. The utility of the records relating to these taxes consists [illegible] [illegible] [illegible]

but few of the assessors make it a point to preserve the older maps. In San Diego County an effort is made to obtain copies of all maps relating to the county or of land surveys within the county. The result is a most valuable collection of maps and surveys of value both to the research worker and to the officials of the county.

THE TAX COLLECTOR

As is implied in the name, the chief function of the tax collector is to collect the taxes for the county. Some of these, however, as in the case of the tax on personal property unsecured by real estate and in former years the poll and road tax, are collected by the assessor. By a constitutional amendment adopted in 1910 the state and county tax system was divided, the county receiving all funds from taxes on general property, the state being supported by a tax on corporations. In addition to county taxes the tax collector gathers the tax on all public corporations outside of incorporated cities and any other general taxes required by the state. He is also required to collect all county license fees as well as all state licenses except those granted by the county clerk. In case the tax on property is not paid within the legal time limits the tax collector is required to sell the property to the state.

Most of the records of the tax collector consist of cash books, journals, balance records, ledgers, receipts and other books used by him to keep a check upon the amount of money passing through his hands. From the financial viewpoint they are of value, but to the average research worker they are apt to arouse but little interest.

For the purpose of collection of taxes the assessment roll for the current year is kept by the tax collector. It is afterwards deposited with the auditor. All taxes which remain unpaid at the end of the time allowed are recorded in a delinquent roll which is kept by the tax collector until the tax is paid or the property sold. The subject of tax sales and redemption of property sold for taxes has been considered more fully in dealing with the archives of the recorder.[1]

The license records, since they include all county and state licenses for saloons, peddlers, merchants, auctioneers, etc., are in many cases of value and interest since they give an index to the amount and kind of business done throughout the county.

The records of the tax collector are not usually looked upon as being of more than temporary value and, as a result, it is seldom that full sets of records are still to be found in the archives. Many of the tax collectors deposit all books with the auditor or in some storeroom as soon as their immediate usefulness was passed.

INDEX.

Acquisition of original title, records relating to, 51–54.
Actions, description and importance of register of, 24.
Adjacent counties, brands of, 65.
Agreements, 69.
Alameda county, law regarding squirrel claims, 62.
Alcalde, office of, 50; powers and duties, 50, 51; records, 51.
Allowance book, 27.
American conquest, 1846–48; records relating thereto, 50.
Annual report to superintendent of schools, 78, 79.
Architects, record of licensed, 69, 70.
Archive space, economy in, 13.
Archive study, practical value to record keeper, 2; to taxpayer, 3.
Archivists, training of, 14.
Articles of incorporation, 42.
Assessment rolls, 82.
Assessment statements, 86; orders of cancellation of erroneous assessments, 28.
Assessor, duties and records, 85–87.
Assignments, 57, 58.
Astle, Thomas, on importance of good inks, 6.
Attachments, 62.
Attics, for housing public records, 5.
Attorneys, roll of, 20.
Auditor, 81–84; importance of records, 81–82; records described, 82–84.
Banking records; assets, capital, 70.
Bartlett, alcalde, ledger for 1846–47, in San Francisco archives, 50.
Basements, for housing public records, 5.
Binding of records, 11.
Births, records, 66–68; register of, 67.
Board of education, records, 79.
Board of supervisors. *See* Supervisors.
Bond and surety companies, 42.
Bonds, 82, 83; record of official bonds, 73, 74.
Brands, and marks, 64–65.
Buildings, fireproof needed for public records, 4; conditions in California, 4.
Burial of ex-union soldiers, sailors and marines, 27.
Burial permits, 69.
Business concerns, records of clerk pertaining to private, 42, 43.
Calendar, county records, 20; seldom prepared, 21.
Calfskin, leather for binding records, 12.
Census records. *See* School *and* Federal census.
Cemetery associations, rural, 42.
Certification records, record of certificates issued to teachers, 79.
Claims, land, 51, 52; pre-emption or possessory, 52; mining, 53.
Clerk, 15–45; general duties, 15, 16; court records, 16–24; supervisors' records, 24–29; miscellaneous records, 29–45; duties as clerk of board of supervisors, 27.
Colored inks, not permanent, 9.
Commitments for insanity, description and various titles used, 22.
Contra Costa county, squirrel claims, 62.
Copying of records, 11; photographing of records, 11–12.
County court, history and jurisdiction, 17; superseded by superior court, 1880, 17.
Court records, history and organization of courts, 16–20; records described, 20–24.
Court of sessions, history of, 17, 18; jurisdiction, 18; duties under law of April 11, 1850, 24, 25.
Courts of first instance, 50; records of, 51.
Deaths, register of, 67; registration by state bureau of vital statistics, 68.
Decrees of distribution or partition, 55.
Deeds, 54, 55.
Delegates elected to conventions, records of, 39.
Dentists, register of, 11.
Dependents, care of, records concerning county hospitals, aged indigents, orphans and half orphans, 83.
Destruction of records, 13.
Discharge from state hospital, certificates of, 23.
District court, history and jurisdiction of, 16, 17; records required to be kept, 17; superseded by superior court in 1880, 17.
Distribution, wills and decrees of, 55.
Docket, 21; execution docket, 21; judgment docket, 23.
Documents and records, repair of, 10.
El Dorado county, lost records recovered, 3.
Election expenses, statement filed by candidates and committees, 70.
Election records, 40; Napa county, "Register of persons voting and when," 1876–78, 40.
Election returns, provisions in act of 1850, 37; later amendments, 37, 38; no longer preserved, 39; result of canvass found in minutes of supervisors, 39; for Humboldt county, 1853–72, 39.
Elections, 37–40.

Encumbrance of title, transfer and, 54–63.
Equalization records, 28.
Erroneous assessments, orders of cancellation of, 28.
Estrays, acts regarding, 65, 66; estray books, 65; estray and lost property book, 66.
Examination records, 80.
Execution book, 21; execution docket, 21.
Federal census returns, laws regarding, 43, 44; preserved in what counties, 44.
Fee books of recorder, 71.
Fictitious names, provisions of acts regarding firms under, 43.
File or judgment roll, contents in civil and criminal cases, 21.
Fire, danger of in California courthouses, 4.
Firms under fictitious names, provisions of acts regarding, 43.
Fiscal officials, 81–87; auditor, 81–84; treasurer, 84–85; assessor, 85–87; tax collector, 87.
Fishing licenses, hunting and, 30.
Franchise book, 28.
Furniture and equipment of public record buildings should be fireproof, 6.
General index to suits, 22; records of, 17.
Gold ores, 1849–50, 50, 51; towns and districts of valuable, 50, 51; records of cases of first instance, 51.
Grant, register, provided for by Register Act of 1865, 34; description of, 34; specifications of Political Code, 1872, 35; fees for issuing, 35, 36; preservation recommended, 1903, 36; discretion left in favor of preservation affidavits, 1909, 36; changes in statutes, 1912, 36; to whom to be given, etc., 37; value to students of history and political science, 37.
Health, records relating to public, 40.
Homesteads, provisions of acts regarding, 58; purchase of homesteads, 58; abandonment of homesteads, 58; homestead declaration, 58; declaration of abandonment of, 58.
Hotels, registers of, 40.
Hunting licenses, [illegible] 30.
Indexes, [illegible] 12.
Indexing [illegible] 67.
Indexing [illegible] 62.
Indexing [illegible] 22.
Indexing [illegible] 17.
Indexing [illegible] 71.
Indigents, records concerning aged, 83.
Inheritance tax records, 84.
Inks and their effect on the permanence of a record, 6; Thomas Astle on importance of, 6; investigations of Schluttig and Neumann, 6; of Commonwealth of Massachusetts and United States Treasury Department, 7; inks used in California archives, 8; ink tests, 8; colored inks not permanent, 9.
Ingress, 23.
Insanity, commitments, 22; certificates of discharge from state hospitals, 23.
Interchangeable-leaf record books, 12; complaints regarding in fiscal offices, 13.
Investigations regarding proper inks, 6, 7.
Judgment book, 23.
Judgment docket, 23.
Judgment roll, 21.
Judgments, transcripts of, 63.
"Junk," term often improperly applied to valuable records, 5.
Jury lists, 23, 24; jury [illegible] of jury record, 24.
Justice court dockets, 44.
Juvenile court records, 19, 20.
Land claims, 51, 52.
Land grant records, 21; [illegible] grants, 52.
Land office returns, 86.
Land register docket, legislation [illegible] system, 55, 56.
Land sales, state, 85; school lands, 52; swamp and overflowed lands, 52.
Lawsuits, papers in, Montana archives, 2, 76.
Leases and mortgages, acts [illegible], 57.
Licensed surveyors, 64.
Licenses, record, in auditor's office, 82.
Licenses, hunting and fishing, 30.
Liens, 62; fees for recording [illegible] 61.
Lining, use of unbacked [illegible] preservation recommended, 5.
Lis pendens, 62.
Los Angeles, 8; grish [illegible] Angeles county by Act [illegible] 50; proposals regarding Mc[illegible] 50; [illegible] 30.
Los [illegible] 3.
Mexico, [illegible] 63; 1820 and 1846 regulations, 64; [illegible] 85, 87.
Mines, [illegible] 27.
Mining records, 64; [illegible] 65; [illegible] of [illegible] 65.
Mining [illegible] 1872, [illegible] 50.
Mining [illegible] 50; [illegible] 50; [illegible] 50; [illegible] 50.
Mining [illegible] 7.
[illegible] 7.
[illegible] 7.

Materials used in record making, need for care in their selection, 6–10; inks, 6–9; paper, 9–10; stamp pads, 9; typewriter ribbons, 9.
Medical certificates, record of, 40.
Mexican régime, collections in archives of Los Angeles and San Francisco, 49; "Record of Official Acts of Thomas O. Larkin" in Monterey county archives, 50.
Military rolls and military tax, provisions of acts from 1850-63, 30; provisions of code of 1872, 31.
Mining claims, 53; mining district records, 53.
Minutes, of the courts, 24; of the board of equalization, 28; of supervisors, value to historian, 28; canvass of election returns in supervisors' minutes, 39.
Miscellaneous records; of clerk, 29-45; of recorder, 69-76.
Moisture in vaults removed by unslacked lime, 5.
Monterey, Spanish archives at Salinas, 2; Larkin papers, 2; records concerning American conquest, 50.
Mortgages, acts affecting leases and, 57.
Napa county, "Register of persons voting and when," 1857: 78, 79.
Naturalization, under jurisdiction of district court, 17; under superior court, 31; laws affecting, 31-32; records required by law of 1863, 33.
Negro and Indian slavery mentioned, 2.
Newspaper files; in recorder's office, act of 1872, 71; in county clerk's office, laws of 1853 and 1870, 72; in public [illegible] of 1909, 73.
[illegible] of and nomination [illegible], 36; provisions of law of 1911 regarding record of nominations, 39.
Office furniture and equipment, fireproof needed in public record buildings, 6.
Office routine and general duties of clerk, [illegible].
Official acts; Thomas O. Larkin, in [illegible].
[illegible] B[illegible].
[illegible] of, 13.
[illegible] 28.
Original titles, [illegible] 73, 74.
Orphans and half orphans, record [illegible] 83.
Osteopaths, register of, 47.
Overflowed lands, swamp and, 52.
[illegible] 54.
Paper for records, need of care in selecting, 9; paper used by Massachusetts, 9; paper used in California archives, 10.
Peddlers, licenses of, 55.
[illegible] 52, 53.
Pharmacists, laws of 1891 and 1905 regarding register of, 41, 42.
Photography as a means of recording documents, arguments in favor, 11; arguments against, 12.
Poll lists, only official register of [illegible] between 1850 and 1866, 33; changes made by Registry Act of 1866, 33; abolished by Pol. Code of 1872, 34.
Poll tax records, 86.
Possessory claims. *See* Pre-emption.
Pre-emption or possessory claims, separate record kept since 1851, 52.
Pre-statehood records, 48–51; records for early Spanish period, 48; Mexican régime, 49; period of American conquest, 1846-48, 50; Gold Era, 1849-50, 50–51.
Primary election law of 1911, 39.
Private business concerns, pertaining to, 42, 43.
Probate cases, jurisdiction of district court, 16; of county court, 17.
Probate court, created in 1851, 17; history, jurisdiction, 18; superseded by superior court in 1880, 19.
Probate records, 16, 17, 19.
Public health, records of clerk, 40.
Public improvements, lien for, 61.
"Record of Claims Allowed," 27.
Record keepers, practical value of archive study to, 2; training of, 14.
Record paper, need for careful selection, 9.
Recorder, 46–76; general duties, 46-48; pre-statehood records, 48–51; records relating to property titles, 51-66; vital statistics, 66-69; miscellaneous records, 69–76.
[illegible] 45.
[illegible] taxes, tax sales and, 87.
[illegible] of actions, 24.
[illegible] of titles, record [illegible] 76.
[illegible] register, 34–37; registration efficiency [illegible] record register, 1909, 36; changes [illegible] 37.
[illegible] 1856, 33.
[illegible] 57, 58.
[illegible] of [illegible] 10, 11.
[illegible]
[illegible] 12.
[illegible] 27.
[illegible] of [illegible] 62; certificates of, for trees, 63; [illegible] 63; [illegible] deed books, 63.
[illegible] 2; [illegible] 2.

San Francisco, Spanish archives at, 2; records relating to Mexican régime, 49; records concerning American conquest, 50; board of supervisors created for San Francisco county, 25.
Santa Cruz, Spanish archives at, 2.
Satisfaction, 57, 58.
Schluttig and Neumann, investigations in regard to inks, 6; formula for iron tannate inks adopted by Massachusetts and by United States Treasury Department, 7.
School and fiscal officials, 77–87; superintendent of schools, 77–81; auditor, 81–84; treasurer, 84–85; assessor, 85–87; tax collector, 87.
School census records, 80.
School funds, auditor's office, 82; treasurer's office, 84, 85.
School land warrants, 52.
Sessions, court of; history, 17, 18; jurisdiction, 18, 24, 25.
Slavery papers, mentioned, 2; where [illegible], 74.
Soldiers, sailors and marines, burial of ex-union, 27.
Sole traders declarations, 74, 75; sample entry, 75.
Sonoma archives, records cited, 50.
Space required for archives, need of economy in, 13.
Spanish archives at Los Angeles, Salinas, San Francisco and Santa Cruz, 2.
Spanish land grants, 52; mentioned, 2.
Spanish period, importance of records for, 48; in Monterey county archives, 48; in San Jose archives, 49.
Special partnerships, 75.
Squirrel claims, 62; in Alameda and Contra Costa counties, 62.
Stallion register, 76.
Stamp pads, danger of use on public records, 9.
Standard ink, general requirements, 7; typical formula, 7.
Standard record paper, 9.
Statistics, county, record of births, deaths, 69.
[illegible] bureau of vital statistics, 68.
[illegible] sales, 85.
State registrar of vital statistics, duties of, 66, 67.
[illegible] school land warrants, 52.
[illegible] documents and files, for [illegible] public records, 5.
[illegible] of schools, 77–84; [illegible] superintendent of schools, office created by act of 1852, 77; [illegible] powers and duties by act of 1855, 77; [illegible] by act of 1873, 77; Pol. Code, 1915, 78–81.
Superior court, organization and composition, 19.
Supervisors, board of, created for county of San Francisco, 25; for all counties of the state, 25; powers and duties by law of 1855, 25, 26; additional powers, 26; duties of the clerk, 27; records, 27–29.
Surety companies, bond and, 42.
Surveyors, licensed, 64.
Swamp and overflowed lands, 52.
Swan, Robert T., public record commissioner of Massachusetts, investigations concerning inks, 7.
Tax collector, duties and records, 87.
Taxpayer, value of archive study to, 3.
Tax sales, 58; provisions of acts of 1850, 1851, 1852, 1853, 1857, 59; of 1861, Pol. Code 1872, 1895, 60–61; of 1913, 61.
Tax sales and redemptions, auditor's records, 83.
Tax suits, jurisdiction of district court in, 16.
Teachers, reports of, 80.
Title, acquisition of original, 51–54; transfer and encumbrance of title, 54–63; register under Torrens system, 56.
Torrens system, provisions of law of 1897, 55, 56; changes in law, 1915, 56; [illegible] register docket, 55, 56; register [illegible] titles, 56.
Training of archivists, 14.
Transcripts on appeal, 24.
Transcripts of judgments, 63.
Transfer and encumbrance of title, 54–63.
Treasurer, records kept by, 84–85.
Trustees, reports of school, 80.
Typewriter ribbons, 9.
United States Treasury Department, formula adopted by, 7.
Vaults but little used, poorly lighted and ventilated, 5; suggested remedies, 5.
Verification deputies, 39.
Vital statistics, 66–69; duties of registrar, 66; neglect in keeping records, 67; provisions of Pol. Code 1872, 67; amendments of 1905, 67; registration of deaths as provided by act of 1907, 68; state bureau of statistics, 68; burial permits, 69.
Warrant books, 83–84; register of warrants, 83, 84; record of register pads, 83, 84.
Water rights, records of, 53–54.
Wills; [illegible] decrees of distribution, 5.
Yolo county, estray book and [illegible] property book, 66.

UNIVERSITY OF CALIFORNIA
Santa Barbara College Library

University of California
SOUTHERN REGIONAL LIBRARY FACILITY
305 De Neve Drive - Parking Lot 17 • Box 951388
LOS ANGELES, CALIFORNIA 90095-1388

Return this material to the library from which it was borrowed.

3 1205 00363 8895

UC SOUTHERN REGIONAL LIBRARY FACILITY
AA 000 145 397 6

Univ
So
L